# ESSAY

ON THE

# NATURE and METHOD,

Of Aſcertaining the

## Specifick Shares of Proprietors,

UPON THE

## INCLOSURE of COMMON FIELDS.

With Obſervations upon the

## Inconveniences of Open Fields,

AND UPON THE

## OBJECTIONS to their INCLOSURE,

Particularly as far as they relate to the

## PUBLICK and the POOR.

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## ERRATA.

Page 1. Line 9, after *distinguished*, insert, *sometimes by the Name of Waste from their uncultivated State, but generally*, &c.

P. 17, at the End of Line 4th from the Bottom, dele *of*; at the End of Line 5th, insert *of*.

P. 67, l. 6th from the Bottom, read *summum*, instead of *summus*.

# PREFACE.

IN this Age, abounding with Incloſures, it cannot be an unintereſting Subject to Individuals, nor perhaps unacceptable to the Publick, to canvaſs the Principles, upon which the Determinations of Commiſſioners are uſually founded. This is a Science, which in the Infancy of its Eſtabliſhment, was confeſſedly underſtood very imperfectly; and although a more regular Practice has been in general the Reſult of greater Experience, yet in particular Inſtances, the Office has been intruſted with very unſkilful Perſons; and perhaps it will admit of Doubt, whether in any it has been ſo perfectly diſcharged, as to have been liable to no juſt Exception.

The Perſons employed in this Buſineſs are generally ſelected out of the

moſt ſenſible and intelligent Farmers, who are certainly the beſt qualified to judge of the Value of Land, and the Conveniences requiſite for converting it to the moſt advantageous Purpoſes; but with reſpect to Points not immediately connected with their own Sphere of Action, their Judgment cannot ordinarily be expected to extend farther than the Dictates of plain natural good Senſe will direct it.

To make, or at leaſt to examine the neceſſary Calculations ariſing from their own Determinations; to form a Judgment of the Execution of a Survey; to range properly and comprehend the Evidence of controverſial Matters which come before them, and to give every Object its due Conſideration and Attention, are Articles of Buſineſs, which it requires a conſiderable Extent of Abilities to conduct properly. In Things of this Nature it is no Wonder, if Perſons of little Learning, and unaccuſtomed

unaccuſtomed to Habits of thinking, are ſometimes defective.

The conſtitutional Method eſtabliſhed among us of deciding Diſputes about Property, is by an Appeal to twelve Men, empannelled to give Sentence upon their Oaths according to the beſt of their Judgment, and the Facts, which are laid before them. The Witneſſes on both Sides the Queſtion are examined in a very ſolemn Manner in open Court, in the hearing of the moſt learned of the Law, the Reverend the Judges, who are to inſtruct the Jury in Points of Law, and in the Degree of Evidence and Probability, which accompanies the Relations, which are made to them. This Ceremony takes Place when the Matter in Diſpute is even of leſs Value than five Pounds; and after all the Determination is not final, if either the Verdict appears to the Judge to be given contrary to Evidence, or there is any equitable Plea in the Caſe,

Caſe, which the Deficiency of the Law will not extend to. How different is the Method of ſettling the Rights of Proprietors upon Incloſures? on which Occaſions the adjuſting of Property of forty or fifty thouſand Pounds Value is left to the Arbitration of a Majority of five, often Perſons of mean Education, without any Guide to conduct them, and yet without any legal Appeal againſt their Deciſions, even in Caſes of unjuſt Judgment. Though it might be of dangerous Conſequence to ſubject theſe Matters to the Cognizance and Diſcuſſion of Courts of Law, which might create Diſputes, and occaſion a great deal of frivolous and vexatious Expence, yet it is to be wiſhed that the Confidence repoſed in Commiſſioners was more limited, and that their Practice could be regulated by ſome certain Data or Principles.

What is here offered to the Publick is drawn up upon a very contracted

Plan,

Plan, and chiefly calculated for that Combination of Circumſtances, which takes Place where the Yard-Land is the prevailing Denomination of Open-field Property, and the Fields are laid out in Greenſward Balks between the Arable Lands, Hades at each End, and Leys intermixed with them. Yet in every Inſtance the general Diſtinction muſt occur of common and ſeparate Rights; and the Obſervations reſpecting the Deductions for Herbage, when adapted to the different Variation of Circumſtances, the comparative Value of Tythes, and the Proportion of Mounds to be allotted to each Proprietor upon Incloſure, will, be applicable to all Kinds of common and promiſcuous Property.

If the following Pages ſhall be in any Degree conducive to the better Diſcharge of this Buſineſs, or ſhall furniſh Hints, which may lead to a more clear and explicit Knowledge of the

the Duties of it; or if they only afford to Proprietors the Satisfaction of knowing upon what footing their Property is likely to ſtand, when they give their Conſent to an Incloſure of it, the Writer flatters himſelf that his Labour will not appear uſeleſs to the Publick. This Part of the Subject is to the beſt of his Knowledge entirely new; and therefore he hopes that any Omiſſions or Defects which he has accidentally and not wilfully incurred, will be candidly overlooked.

# AN ESSAY, &c.

## CHAP. I.

### *Of the Nature of Open Fields, and the Inconveniences attending them.*

OPEN or Common Fields are Tracts of Land, wherein the Property of ſeveral Owners lies promiſcuouſly diſperſed. Thoſe Parts thereof, upon which particular Perſons have any excluſive Right of Enjoyment, are uſually ſtyled known Land; Others, upon which no ſuch Claims are pretended, are therefore called unknown: Theſe are alſo diſtinguiſhed by the Name of Common, becauſe they are depaſtured in common by a determinate Number of the Cows, Horſes, Oxen, or Sheep of the ſeveral Proprietors, according to the Quantity of Cottage-rights,

Acres, Oxgangs, or Yard Lands, which each is poſſeſſed of.

Even the known Land is Several only at particular Seaſons, viz. from the ſowing of the Seed, or ſome little time after to the ending of the Crop. At all other times it is open or common to every Proprietor, who has Right of Common in the ſaid Fields; and ſubject to the depaſturage of Cattle in certain Proportions and under certain Reſtrictions, in the ſame manner as the unknown or common Land.

To trace the Original of theſe Common Rights with any Certainty, would be difficult, and is no Way eſſential to the Purport of theſe Remarks. It is probable that the open Fields were formerly Woodlands, and that the Lords or Chieftains ſuffered their Vaſſals or Dependants to obtain Property therein, under certain Services or Quit-Rents, by ſtocking and clearing them from Rubbiſh, ſo as to become fit for Tillage or Paſture; that the Method of their proceeding was to confine themſelves to ſmall Parcels at a time, or as much only as they could clear in one Year; and that each Perſon or Family had ſeparate Undertakings, but all acted in the ſame Tract. By this means the Increaſe of

Property would be gradual and alſo promiſcuous. As to the Rights of Paſture, they ſeem to have been at firſt ſettled among themſelves by private Agreement, according to the Quantity of cultivated Land which each Perſon or Family became poſſeſſed of. The ſhifting of Property, or the alternate Poſſeſſion of Meadow or Graſs Ground, which happens frequently in open Fields, the Right of Paſturage on the unknown Land, and the inter-commoning of different Pariſhes, are Circumſtances, which at this Time of Day we can hardly account for, otherwiſe than by ſuppoſing that ſuch Parcels were cleared jointly, and that the Method of Enjoyment was alſo ſettled by the private Agreement of the ſeveral Parties concerned, in the Manner we now find it.

The * Yard-Land appears to have it's Denomination rather from the Paſturage, which it is intitled to, than from any determinate Meaſure of the Land which it now contains. It is a very uncertain Quantity in different,

* The moſt probable Conſtruction of the Term Yard-Land was ſuch a Quantity of Land in a common Field as was entitled to depaſture therein a Number of Cows ſufficient to ſtock a moderate ſiz'd Farm-Yard.

and even in the ſame Fields. The only Circumſtance of Equality is in the Stock of Cattle to be depaſtured upon it, which differs in different Fields, but in the ſame is for the moſt Part equal, whether the Yard-Land conſiſts of a greater or leſs Number of Acres of known Land.

From the foregoing Remarks it appears, that the Property of open Fields conſiſts partly of Rights enjoyed in Severalty, and partly of Rights enjoyed in Common; and that ſome of the Rights of Severalty are held only alternately, and are ſubject to annual or other accidental ſhifting or exchange of Proprietors.

The Manner of huſbanding Land in open Fields varies much in different Counties; but there is a certain Rotation of Tillage obſerved in all. It is an univerſal Rule to take two or three Crops, and make a Fallow, according as the Fields are divided into three or four Parts, except in a very few, which are ſaid to be of ſuch extraordinary Quality, as to bear Crops every Year without fallowing; and except alſo in ſome Tracts of light Land, where they have had the Wiſdom to adopt the modern Way of Improvement by Turnips and

Graſs

Seeds; in which caſe the Number of Parts is commonly extended to at leaſt as many as ſix. Where the threefold Diviſion prevails, it is uſual to ſow the fallowed Land with all Wheat, or partly with Wheat and partly with Barley; and the ſame Field the Year after with Beans, Peas, Vetches, Oats, or Barley, after which it comes again in courſe to be fallowed. Where there are four Fields, three of them are always in Crop; of which one is Wheat, another Barley, and the third Beans, Peas, Vetches, or Oats. In ſome Fields they ſow Barley upon the Fallows, and Wheat after the Beans, and then the Manure is ſome times ſpread upon the Bean Land; but in general it goes upon the Fallows, and Wheat or Barley is the firſt Crop ſown after it.

As to the common Land, it remains for the moſt part in the ſame ſtate from Generation to Generation. The Lord of the Manor is Lord of the Soil of ſuch Land, and conſequently entitled to the Property of all Trees growing thereon, or Mines in the Bowels thereof. The Proprietor of the Open Field claims only the Thorns and Furze, together with the Herbage, or grazing of it, and ſtrictly is thought to have no Right to plough, nor even to grub up any

Roots

Roots or Rubbiſh, nay, not ſo much as to make Trenches for draining it, without the Leave or Licenſe of the Lord.

This divided Right of the Soil and the Paſturage between the Lord and the Proprietors, and the Difficulties, which ariſe from this Circumſtance of accompliſhing any Agreement between them, together with the Neceſſity of univerſal Concurrence among the Proprietors themſelves, before any Schemes of Improvement can take Place, are the Reaſons, why ſo many thouſand Acres of common Land in this Kingdom remain in a very barren and uncultivated State, tho' they are naturally extremely fit either for Tillage or Paſture.

From this ſhort View of the Nature of open Fields, it is plain that almoſt innumerable Inconveniences muſt attend the Enjoyment of ſuch Property, of which the following are moſt remarkable and ſelf evident.

1ſt. The Onus or Expence of cultivating known Land lying promiſcuouſly diſperſed in Fields, eſpecially if they are of conſiderable Extent, muſt be much greater than where Lands are contiguous, and are laid convenient to the Habitations or Out-buildings of the reſpective Occupiers.

2d. The

2d. The Attendance which is neceſſary upon all Manner of Cattle depaſtured in open Fields, and the conſequent Expences of it, are a great Diminution of the Value of ſuch Herbage.

3d. The Proprietors of open Fields are liable to great Treſpaſſes and Encroachments, both from their Neighbours and each other.

4th. They are confined to a certain and expenſive Method of Cultivation by Tillage, although the Nature of the Land be ſuch, as renders it convertible into good Paſture, and capable of becoming equally advantageous to the Proprietors, with a tenth Part of the Expence.

5th. The Neceſſity of univerſal Agreement among Proprietors, eſpecially where they are numerous, is an almoſt inſurmountable Obſtruction to any Improvements being made in Lands during their open Field State.

6th. For Want of ſuch Improvement and of Shelter, the Cattle depaſtured therein muſt be more expoſed to Hardſhips and Inclemency of Weather, and conſequently are of leſs ſize and

inferior

inferior Value in all reſpects to the Proprietors, and the accidental Loſſes much greater than they would be in the ſame Land, if it was Several and Incloſed.

Theſe are Inconveniences which affect the Property of every open Field, more or leſs. They vary in degree in almoſt every Pariſh, according to the Nature of the Soil, the Regulations or Bye-Laws, which prevail, and other Circumſtances. As for Inſtance,

Land, which requires to be kept in Tillage, is leſs incommoded by the open Field State, than that which is fit for Paſture or Dairy.

Where Courts are regularly held, and Bye-Laws are enforced under certain Penalties and Reſtrictions, Offences will be leſs frequently committed.

The more any Field is incloſed againſt the neighbouring Fields, the leſs Injury will it ſuſtain from thence; and the more it is divided within itſelf, the leſs Injury will the Proprietors thereof receive from each other; and in both Caſes the Onus or Expence of depaſturing Cattle will be proportionably diminiſhed.

The Expence of cultivating Lands in open Fields always increaſes in proportion to the Extent

Extent of ſuch Fields, and their convenient or inconvenient Situation with reſpect to the Habitations of the Occupiers; ſo that ſmall Fields will, cæteris paribus, be of greater Value by the Acre than large ones, and thoſe, which are conveniently, than ſuch as are inconveniently ſituated.

Theſe Remarks will be ſufficient to give a general Idea of the Nature of open Fields, the Manner of their Cultivation, the Inconveniences attending them, and the Circumſtances, by which thoſe Inconveniences are augmented or diminiſhed.

## CHAP. II.

### *Incloſures, and the Objections to them conſidered.*

IT has been a Subject of great Altercation in private Companies, and is the Source of oppoſite Opinions even among very ſenſible People, whether the Incloſure of Common Fields is advantageous or hurtful to the Publick.

At preſent it may ſuffice to obſerve, that the many Bills of Incloſure paſſed every Year by the Parliaments of *England*, ſufficiently ſhew the Senſe of the Britiſh Legiſlature concerning this Matter; and that whatever Doubts may ariſe as to it's publick Utility, the numberleſs Advantages which accrue from it to Individuals, are inconteſtible and cannot be denied. For

Firſt of all, the Proprietor obtains by it an abſolute and excluſive Right over his own Eſtate, to convert and employ it at his Pleaſure to the moſt advantageous Purpoſes. His Property from thenceforth becomes for ever aſcertained; no longer ſubject to the Frauds and Rapacity of encroaching, nor to the Caprice and Selfiſhneſs of perverſe and unreaſonable Neighbours. It no longer lyes diſperſed up and down in every Furlong of an open Field, but is for the moſt Part laid out in one entire Plot, adjoining to his own Houſe or Premiſſes, by which his Buſineſs lyes all together, the overlooking it is made convenient and eaſy, and every Branch of Huſbandry is carried on with leſs Difficulty and Expence. The Paſture Land once put in order, teems with annual Produce without any Cultivation, inſtead of having Crops only two Years out of three,

three, and thoſe procured by the laborious, as well as expenſive Methods of fallowing and manuring. The charges of herding and ſhepherding, which were very conſiderable in the Open-field State, now almoſt entirely ceaſe. The Cattle, which, from their open Expoſure, before ſuffered the oppoſite Extremes of immoderate Heat and Cold, by Degrees receive the Benefit of Quickſet Hedges, to afford Shade againſt the Heat of the Summer, and Shelter againſt the Inclemency of the Winter. The Common-Land, which before had lain for ſeveral Ages in a very uncultivated State, ſoon puts on the ſmiling Aſpect of plentiful Crops, and in ſeven Years after affords almoſt as much Benefit to the Proprietors, as it did in Seventy before the Incloſure. The generous Occupier had the perpetual Mortification in the open Field State of ſeeing his Labours ſhared by others, without the leaſt Inclination in them to partake of the Expence. But now no Difficulties or Diſcouragements ſtand in the Way to obſtruct his Schemes of Improvement. Whatever Tribute of Fertility the grateful Earth beſtows as the Reward of honeſt Induſtry and good Management, redounds ſolely to his own Advantage. By the Concurrence of all theſe Circumſtances

there reſults from the ſame Property generally a double, frequently a threefold Advantage to the Owners, procured merely by obtaining an entire Right of Severalty in their Eſtates, and by making proper Diviſions with Quickſett Hedges about them; which, tho' attended with the preſent Expence of Two or Three Pounds an Acre, will in a Courſe of Years afford Timber and Fire-wood almoſt ſufficient to anſwer that Incumbrance, over and above the annual improved Value of the Eſtate.

Great and manifeſt as theſe Advantages are to the private Perſons intereſted in Incloſures, they have always been encountered with ſuppoſed Inconveniences and Prejudices reſulting from them to the Publick. Formerly Proclamations were publiſhed from the Helm, and even the Legiſlature ſometimes interpoſed not only to put a Stop to, but even to order that all new Incloſures ſhould be thrown open. This Conduct ſeems to have been founded rather in a political Deſign of the Promoters to ingratiate themſelves with the Multitude, to whom Incloſures were always unpopular, than in any Conviction of their Inutility to the Publick; becauſe the Diſcouragements were for the moſt Part given in Times of publick Diſcontent,

Diſcontent, and by great Perſons, whoſe Power and Authority were growing precarious; ſuch as Cardinal *Wolſey* in King *Henry* the Eighth's, and the Lord Protector in *Edward* the Sixth's Reign. In more ſettled Times the Clamour has ſubſided, and the narrow Prejudices formerly adopted againſt them appear now to have generally given Way to more enlarged and rational Sentiments. But there are yet many, who adhere to the old Way of thinking concerning them, and they argue upon theſe Principles.

1. That Incloſures diminiſh the Number of Inhabitants in ſuch Pariſhes as become incloſed, and that People trained up to Huſbandry are the moſt fruitful Subjects and can beſt bear Hardſhips: conſequently the Loſs of ſuch Subjects is a Loſs to the Publick, and the Depopulation muſt become National.

2. That Incloſures convert a great deal of Tillage Land into Paſture, and that therefore they occaſion a leſs Quantity of Corn to be produced within the Kingdom.

3. That the Poor are thereby greatly injured, being deprived of the Privileges of cutting

ting Furze and Turves, and of Leaſing, beſides the Loſs of Employment to themſelves and their Children.

4. That a Country is rendered leſs commodious both for travelling and ſporting.

To theſe is ſometimes added a fifth Objection, which it is ſuppoſed will hereafter take Place, and whenever it does, will moſt effectually put a Stop to them, which is, that, by making them too general, they will ceaſe to be advantageous.

1. The Depopulation of the Country has been always inſiſted upon as a principal Objection againſt Incloſures, although it was obſerved * ſome Ages ago, that between the Counties of *Somerſet* and *Northampton*, the former incloſed, the latter Champaign, there was no Compariſon with reſpect either to Subſidies or Muſters of Men, which each afforded. The incloſed County far exceeded the Proportion of the Champaign. This Argument it is true, is not concluſive, becauſe

* *Kennett's* Coll. Life of *Edward* VI.

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the Wealth and Number of Inhabitants in a Country depends not altogether upon it's Cultivation or Fertility, but on other accidental Circumſtances, ſuch as it's Situation for Trade, and for being readily ſupplied with Neceſſaries, both which are remarkably in favour of the County of *Somerſet*; and indeed it is alſo much larger than that of *Northampton*, ſo that they are not parallel, nor could any concluſive Argument be drawn from it, if they were. But that the general Number of People in the Kingdom is not diminiſhed of late, but rather increaſed, we have many reaſons to preſume. There is ſcarce any County, in which the Number of Freeholders does not turn out upon an Election Poll much more conſiderable than formerly. The Rates for the Relief of Poor are in almoſt every Pariſh ſwelled to an enormous Degree beyond what they were in the Memory of many Perſons now living. The Conſumption, which we experience for the natural Produce of our Lands amidſt the amazing Improvements in Huſbandry, without any extraordinary Increaſe of Exportation or Defect of Crops, is a further Indication of it. To theſe Circumſtances may be added, that there does not in fact appear to have been any remark-

able

able Decreaſe of Inhabitants in the Villages, even where Incloſures have chiefly prevailed; which is probably owing to the great Sums of Money annually expended upon the Repair of Roads, which hitherto keeps Pace with Incloſures; that on the contrary, the Increaſe in ſome of the trading Towns has been prodigious within a ſhort Space of Time, as is evident from Calculations as well as the increaſed Quantity of Goods therein manufactured; that our foreign Trade has been more extended, and conſequently that greater Numbers muſt have been engaged in Navigation and Sea-Service; that notwithſtanding the Ravages of two deſtructive Wars within leſs than thirty Years, our Fleets and Armies, including Militia, were more numerous at the Cloſe of the late War than they were ever known to be in any Period of Engliſh Hiſtory. All theſe Conſiderations ſhew the Improbability and indeed the Inconſiſtency of ſuppoſing that the Number of People has yet ſuffered any Diminution. Whatever Depopulation there has been, muſt have therefore been merely local, and not national; and whether our Armies have been ſupplied of late from the Towns or Villages is not material, ſince it is apparent from the Triumphs

umphs of the late ſucceſsful War, that they are no Way inferiour in Hardineſs and Valour to the moſt renowned of their Anceſtors.

2d. That Incloſures convert a great deal of Tillage Land into Paſture is certain, but whether they leſſen the Quantity of Corn produced in the Kingdom, is doubtful. A very conſiderable Part of the Open-field Tillage is employed in the Growth of Beans, which, excluſive of ſo much thereof, as is exchanged for Seed, is chiefly reſerved for Horſes, kept for the Occupation of the Land; but upon Incloſure this Matter ſtands upon a very different footing. The Labour of Horſes is thereby leſſened, and conſequently the Number decreaſes in proportion to the Decreaſe of their Labour; and the Quantity of Horſe-corn conſumed is then alſo leſſened in proportion to the Number, becauſe the Horſes are otherwiſe better ſupported than they were in the open Fields. Hence it is probable that there is not in the common Courſe of Management more than one third Part the Horſe-corn expended in the Cultivation of of the ſame Eſtates, when incloſed, which there was while they were open. This appears to be one of the principal Savings in the Til-

lage by the Alteration. Wheat and Barley are alſo got with leſs Labour, but according to all Appearance in much greater Quantities within the laſt Century, than they were in more ancient Times. Perhaps upon a nice Calculation it will be found, that the Tillage in Crop is very little leſſened upon the Whole by incloſure; and then, as under thoſe Circumſtances it is better huſbanded, and leſs of it applyed to the Growth of Horſe-provender, there muſt of Courſe be much more than uſual produced from it of that, which Nature has calculated for the Support of the Human Species; for the Proof of this let the following Facts be attended to.

There are two very conſiderable Sources of Conſumption for this Produce, ſcarcely known to our Anceſtors, in compariſon of the Extent, in which they now prevail among us; which are the Diſtillery and Exportation. The common People, which compoſe the Bulk of Mankind, have alſo adopted a very different Way of living to what they were formerly accuſtomed to. Inſtead of the coarſeſt Bread, which was their ordinary Fare, made of Barley, or of a Mixture of Rye or Barley with Wheat, they are now not contented without a fine Sort made wholly of the beſt Wheat: inſtead of Water, the

Beverage

Beverage of ancient Simplicity, few of them ſubſiſt long without Malt Liquor in their Families, and thoſe only compelled to it by Neceſſity. To theſe Circumſtances may be added, that the Prices of Grain are much more ſtable among us than formerly; that the Quantities, with which the Markets were then glutted, were at one time deſtructive to the Farmer; at another the Scarcity was alarming to the Populace; but in the preſent State of Things, the beſt Wheat is ſeldom ſold for leſs than four Shillings the Buſhel, nor more than ſix; Barley for leſs than ſixteen Shillings the Quarter, nor more than Twenty-four; and this notwithſtanding the Application of ſome hundred thouſand Quarters annually to the Diſtillery, and of near a Million to Exportation. Upon what Principles can all this be accounted for, but from the increaſed Quantity of that Produce? and what contributes more to it than the Incloſure of common Fields, which converts a great deal of that, which was before employed in the Support of Horſes, to the Uſe of Man; and brings many of our Commons, which were little better than Waſte, under a proper Method of Cultivation and Improvement.

But whatever Doubts may have ~~arose~~ arisen as to the Vegetable, there is no Queſtion but the Animal Diet is enlarged among us; and that in a far greater Proportion than the Vegetable can be ſuppoſed to be diminiſhed, even by the moſt ſtrenuous Advocates for that Syſtem. Concomitant with this Advantage is alſo that of being more plentifully ſupplied with Milk, Butter, and Cheeſe, as well as Wool and Leather for Cloathing. Yet notwithſtanding the Increaſe of theſe ſeveral Articles, we have not more than a ſufficient Stock of any ſingle Part of them. The Farmer finds a ready Market for all the Growth of his Lands, and at Prices, which under all Circumſtances are far greater than He had Reaſon to expect.

Perhaps it may be aſked, how it comes to paſs that in the midſt of all this increaſing Produce, the Neceſſaries of Life are no cheaper amongſt us? This undoubtedly ariſes from the Increaſe either of the domeſtick or foreign Demands for it. The common People have learned to live more luxuriouſly, which is one great Source of extraordinary Conſumption at Home. Another is the Scheme of perverting the Bounty of Nature, which was intended for the Nouriſhment of Mankind into Li-

quors

quors, the moſt pernicious to their Health. The Exportation of Grain is an Inlet of great Wealth to the Kingdom, but as it alſo adds to the Conſumption, it of courſe raiſes the Demands in our Markets. There are however, very eaſy and obvious Remedies to be applied, whenever the Price of Proviſions is become ſo exorbitant, as to be a publick Grievance; not by putting a Stop to Incloſures, nor by reviving obſolete Laws to the Deſtruction of Individuals, which ſerve only to allay popular Clamours, without adminiſtering any Cure to the Diſeaſe; but by farther Checks upon the Diſtillery; by confining the Bounty upon Exportation to the Market Price of five Shillings per Buſhel for Wheat, and loading it with a Duty, when it is above Six; by allowing the Importation of Grain from foreign Countries for limited Spaces of Time; particularly by temporary Introductions of Cattle and Proviſions from *Ireland* into *England*, and by laying an Embargo, if neceſſary, on any other Exportation from that Quarter. Theſe are prudential Means, ſuch as will operate ſafely and without Perſecution; and will be ſure in time, unleſs ſome providential Calamity intervenes, to have the deſired Effect.

Thus

Thus then ſtands the Argument with reſpect to the Decreaſe of Corn by Incloſure. That there are fewer Acres fallowed is on all Hands agreed; that there are alſo fewer employed in the Growth of Beans is without Diſpute; and upon both theſe Accounts it is probable that there is not ſo large a Quantity of Land in Tillage after Incloſure, as there was before. But whether the Produce of Wheat and Barley falls thereby ſhort of what it uſed to do, is ſtill a Queſtion. A candid Attention to the before mentioned Circumſtances will ſhew the Probability of its being greatly enlarged; however, without inſiſting too ſtrenuouſly on this Point, the Animal Diet, and the other Conveniences of Life appendant thereto, are certainly increaſed: and that in a much greater Proportion than the Vegetable can with any Shadow of Reaſon be ſuppoſed to have been leſſened.

The next Objection againſt Incloſures is, that they are hurtful to the Poor, 1ſt in depriving them of their Privileges; 2d of their Labour, which is their Means of Subſiſtence. The poor Inhabitants of Open-field Pariſhes frequently enjoy the Privileges of cutting Furze,

Furze, Turves, and the like on the common Land; for which they have rarely any Compenſation made to them upon Incloſure. The ſelfiſh Proprietor inſiſts that they had no right to ſuch Privileges, but were only permitted to enjoy them by Indulgence or Connivance. But who can aſſert this with any Certainty, where there has been an immemorial Cuſtom of ſuch Enjoyments on the Common? Is there any Thing elſe to eſtabliſh the Right of Paſturage itſelf upon it? It is not impoſſible but the original Grants of theſe Commons might be made with a Reſervation of ſuch Privileges to the Poor: but if not, does not uninterrupted immemorial Uſage in all other Caſes give a legal Sanction even to Encroachments? and why ſhould the Poor, as Poor, be excluded from the Benefit of this general Indulgence? Or why ſhould any Set of Proprietors avail themſelves of the Inability of the Poor to contend with them, to get Poſſeſſion of more than they before enjoyed? This Reaſoning however is applicable only to thoſe Inſtances, where ſuch Privileges have been uſed by them independently of the Proprietors, and not to ſuch where they have been granted to them only at ſuch Times and in ſuch Proportions, as

the

the Owners or Occupiers have thought proper. Nevertheleſs Proprietors would do well to conſider, whether, by making Proviſion upon Incloſure for the Continuance of ſuch Aſſiſtances to the Poor, they do not in reality proportionably leſſen the Burden of them to their Tenants? Whether this is not the ſureſt Means of guarding them againſt that Pilfering Habit, which they are often led to contract, through Scarcity of Fuel particularly, and which they are apt to flatter themſelves may be adopted upon Principle, when they are left deſtitute of Privileges which they before enjoyed? And laſtly, whether this may not alſo anſwer the excellent Purpoſe of preſerving the Independence of many; the Conſideration of which, to Minds poſſeſſed with any Degree of Senſibility, affords one of the ſtrongeſt Incitements to Induſtry.

However therefore this Matter may ſtand as to the Point of Right, yet many prudential Reaſons require that it ſhould be attended to; and it is certainly a very ſmall Sacrifice to make, if Proprietors, by giving the Poor a trifling Share of Property with themſelves, thereby leſſen the Outgoings from their own; preſerve their Fences from being broken and deſtroyed; and, what is of yet more Conſequence, render

their

their Neighbours honeſt, and encourage them to be induſtrious.

The Privilege of ~~Leaſing~~ Clearing ſtands upon another footing. It is an accidental one ariſing from the Manner of Occupation, and remains after Incloſure the ſame as before; only there may be more or leſs to be gleaned, as it happens, by the Variation. But ſuppoſing that there is leſs, there is not the ſame Foundation of Complaint from that, as from the Loſs of Fuel. What is acquired by leaſing, comes generally by hard Labour; and at a Seaſon, when hard Labour otherwiſe directed, would procure Money nearly of the ſame Value: whereas Fuel may be provided at all Seaſons, and particularly when there is a Scarcity of other Employment. Leaſing, tho' a Privilege, is alſo of very uncertain Advantage. It is frequently of ſhort Duration. The only Circumſtance in this Matter that any great Streſs can be laid upon, is, that there is often as much Corn to be gleaned in Years of Scarcity, as there is in thoſe of Plenty; and therefore it is moſt advantageous, when it is moſt wanted to be ſo. Yet it would be very abſurd to argue from thence,

that the ſame Method of cultivating Land ſhould be for ever obſerved for the Sake of the caſual Advantages, which may reſult from it to a few Individuals by gleaning in Years of Scarcity. By Parity of reaſoning, Tillage ought to extend over all the Land in the Kingdom, incloſed or un-incloſed; for it was all originally in the ſame State; and if, becauſe it has been once occupied in that Manner, it ought always to be ſo, leſt the Poor ſhould be injured by it, we may return to vegetable Diet, and go bare-footed.

Nevertheleſs, if any are of Opinion, that ſome of the Arguments made uſe of in the foregoing Paragraph are equally concluſive in the preſent Inſtance, the Writer is very ready to ſubſcribe to their Sentiments, provided the Proprietors are not confined to make Compenſation of the ſame Kind, but to contribute ſome other equivalent Advantage in lieu of it.

2d. It is objected that Incloſures leſſen the Quantity of Labour, which is the Means of Subſiſtence to the Poor, and are therefore in this reſpect very detrimental to them. But this Complaint, if it has taken Place at all, can hitherto be only ſaid to have done it locally.

locally. The Conſequence of the Poor not having Employment muſt be, that the Price of Labour would fall; but of late Years it has been conſiderably advanced. This may poſſibly be attributed to the accidental Cauſes of the War, the raiſing of the Militia, and the extraordinary Demands, which our new Conqueſts have occaſioned for Engliſh Manufactures; and undoubtedly every one of theſe Circumſtances has had its Share in it; but perhaps there is no one, to which it may be imputed in a greater Degree, than to the Incloſures themſelves. The Expences of dividing and incloſing open Fields are in ſome Inſtances rated at four Pounds an Acre, in moſt at Three, and in ſcarce any at leſs than Two; which Variation happens according as Fields are circumſtanced for outward Mounds, inward Diviſions, and Materials for fencing. Upon an Average they may be fairly eſtimated at Three; and of this Sum one Pound ten Shillings may on a moderate Computation be charged to the Account of human Labour; ſo that for every thouſand Acres of Incloſure, there is a new Circulation of fifteen hundred Pounds over and above the Payments of Agri-

culture, among the labouring Claſs of People; none of which would have taken Place, had thoſe Acres continued open. There is this farther Advantage in this Kind of Labour, that the ſeveral Branches of it are uſually paid for by Meaſure; ſo much a Perch for banking and planting the Quickſets, ſo much for Three-rail mounding, ſo much for two, ſo much for one. Again, there are generally fixed Prices by the Perch for making ſtake or footſet Hedges, for banking up to the lower Rails, for drawing Rails with Thorns, for weeding and ſo on; by which the induſtrious Labourer has Opportunity of getting at the cuſtomary Rates fourteen, ſixteen, or eighteen Pence a Day, who before toiled in a Barn for eight Pence and his Beer. It is true this extraordinary Degree of Labour is only temporary, and when it is over, there may be leſs in particular Places after than before Incloſure; but as long as it laſts it creates a Kind of Ferment in the Neighbourhood, the Warmth of which extends itſelf to all the adjoining Pariſhes; and if the Spirit of incloſing prevails, the firſt incloſed Place receives in its Turn the ſame Benefit from others, which it imparted

to

to them; and perhaps the greater, becauſe its Inhabitants are become experienced in the Buſineſs. Where a ſingle Pariſh only is incloſed, it may in ſome Degree affect the Inhabitants thereof after a few Years. But if others follow the Example, the preſent Generation of Labourers in that Neighbourhood will be rather benefited than hurt by it. To explain this, let us ſuppoſe, what may perhaps be nearly the caſe, that the Value of human Labour attending the Cultivation of one thouſand Acres of Open-field Land is three hundred and fifty Pounds a Year, and the Decreaſe thereof three ſevenths or an hundred and fifty Pounds from the End of the firſt Year after Incloſure; then, if twenty thouſand Acres in any Neighbourhood are gradually incloſed in the Courſe of twenty Years, after the Rate of one thouſand in every Year, there will commence in the ſecond Year a Decreaſe of the Wages of Agriculture to the Amount of one hundred and fifty Pounds, in the third Year to the Amount of three hundred, and ſo on in every Year after an additional Decreaſe of one hundred and fifty to the Sum of the preceding Year, the Total of which at the Expiration

of twenty Years will be found to be twenty-eight thouſand and five hundred Pounds; and the Account upon the Whole will ſtand thus:

| | £. | s. | d. |
|---|---|---|---|
| Increaſe of Wages by Labour of Incloſure | 30000 | 0 | 0 |
| Decreaſe of ditto in Labour of Agriculture | 28500 | 0 | 0 |
| Ballance in favour of Labour in general | £. 1500 | 0 | 0 |

It is to be obſerved that the firſt Year after Incloſure is here rated at the ſame Labour of Agriculture as before, and probably might be reckoned at more, becauſe not only all the old Tillage Land, but a good deal of the old Greenſward alſo is frequently in Crop.

According to the foregoing Calculation, which ſtands on the Author's Judgment only, and is certainly not infallible, the Ballance of Wages paid for Labour in a Country, which is gradually incloſing, and one, which continues open, is within the firſt twenty Years fifteen hundred Pounds greater in the former than in the latter; and if we add the extraordinary Expences, which are neceſſarily incurred by making and repairing Roads over new Incloſures, it will certainly raiſe the Account much higher.

Yet

Yet notwithſtanding, it muſt be owned that Individuals in particular Pariſhes may be affected by Incloſures; not ſo much from a Diminution of the Labour and the Prices of it, as becauſe the Courſe of it is altered, and a great deal directed into a new Channel. Before Incloſure, Labourers go on in a continued Round of plowing, ſowing, getting Crops, threſhing, and the like; and they have not their Work to ſeek out. But when the Spirit of Incloſing comes to prevail, this Sort of Labour will gradually decreaſe; and then it behoves thoſe, who are diſpoſed to be induſtrious, to ſeek other Methods of Employment; ſuch as, the getting Brake or raiſing Nurſery Sets, the planting or weeding of Quickſets, hoeing Turnips, morticing and hewing out Poſts, cleaving Rails, ſetting down Hedges or other Mounds, making Drains, ſinking Pits, forming and getting Materials for the repair of Roads; and, if none of theſe offer at home, to ſtrike out into other Pariſhes; and ſuch Perſons as can form their Hands to any Variety of Labour, and will be at the Pains to enquire after it, will very rarely be at a Fault for Employment.

But

But it will happen that a few of the inferior Claſs of People, either from Want of Capacity or of youthful Ability, will not be well qualified to ſeek Subſiſtence out of the common Road; and theſe may poſſibly be ſometimes at a Fault, unleſs the Prudence as well as Charity of their Neighbours ſuggeſts to them the Expediency of aſſiſting them to procure it, in order to keep them from being burdenſome to their Pariſhes.

It is likewiſe an unhappy Circumſtance attending the Generality of labouring People, that they are for the moſt Part upon the ſame footing at the Year's End, whether their Gains are great or ſmall. If they work for eight Pence a Day, they make a Shift to live; and if they get Eighteen Pence, they do no more than live. When their Work is over, they conſider themſelves and their Families as the Victims of Poverty, to be ſupported by the Pariſh; and in the mean Time make no Uſe of Foreſight to prevent it. If they have double Gains this Year, they are not in the leaſt the richer for it in the next. To ſuch Perſons as theſe the extraordinary Profits of one Seaſon are no Counterballance to the Defects of another.

another. Nay indeed they are rather a Misfortune to them, as they only furniſh them with the Means of living better for a while, and conſequently of feeling more ſenſibly the Alteration, when the Neceſſity of their Affairs obliges them to retrench.

But thoſe who have Capacity enough to undertake Buſineſs, Inclination to ſeek after it, and Steadineſs to attend cloſely to it, and who are alſo endued with ſuch a Share of Oeconomy as to confine themſelves, when they get fourteen, ſixteen, or eighteen Pence a Day, to the ſame Diet, as they found ſufficient when their Gains amounted to no more than eight or nine Pence, if it ſhould happen that they are now and then at a Fault for Employment, will nevertheleſs in the long Run find themſelves conſiderable Gainers, and ſecure to themſelves the Means of Subſiſtence not only againſt ſuch caſual Defects, but alſo againſt the neceſſary Approaches of old Age, when Health, Strength, and Ability muſt fail.

Thus far then it appears, that the Underſtanding and induſtrious Labourer may derive Advantage, if He pleaſes, from Incloſures; and that the Improvident, if He is a Sufferer by them, is ſo by his own Fault; ſince the Money

advanced for Labour in an incloſing Neighbourhood is for twenty Years after the Commencement thereof upon the whole conſiderably greater than before, and for every Year under twenty, is proportionably increaſed.

It remains however a Queſtion, what is to become of this Claſs of People, after the Expiration of twenty Years, when the Payments for Labour both of Agriculture and Incloſure muſt be confeſſedly leſſened; or when Incloſure is become ſo general in a Neighbourhood, as entirely to ceaſe.

By this Time, unleſs ſome other accidental Cauſes occur, ſuch as, the making of Turnpike Roads, eſtabliſhing of Manufactures or the like, to furniſh Employment, the Inhabitants will in the common Courſe of Things be reduced in proportion to the Exigencies of the Neighbourhood. The two principal Sources of Settlements are Service and Apprenticeſhip. If the Labour of Agriculture is diminiſhed, the Number of Servants, and conſequently the Number of Settlements obtained by Service in any Pariſh will in Time proportionably decreaſe; and unleſs ſome Manufacture is eſtabliſhed, few Settlements will be gained by Apprenticeſhip. From theſe Obſervations it is evident

evident, that the labouring Inhabitants of a Pariſh will always in a great Degree depend upon the Exigencies of Agriculture and the Means of Subſiſtence, which its Trade or other Employments will furniſh.

When a Pariſh or Country becomes incloſed, the Children of the Inhabitants, whoſe Buſineſs was before to attend Cows or Sheep at home, or to drive Plough, are neceſſarily conſtrained to ſeek Subſiſtence elſewhere by Service or Apprenticeſhip. If they are not wanted for Service, the reſpective Pariſhes to which they belong, will for their own Eaſe, aſſiſt in putting them out to ſome Trade. And thus there is a natural Tranſition of the Inhabitants of Villages, where the Labour of Agriculture is leſſened, into Places of Trade, where our Naval Superiority, as long as it laſts, will furniſh Sources of perpetual Employment.

Whether the Hands, thus directed from Agriculture to Manufacture, are not in that Station more uſeful to the Publick, than in their former, is an Enquiry, which might perhaps be proſecuted with ſome Entertainment to the Reader, but as that would afford too large a Scope for the Writer of

theſe Obſervations, He thinks proper to diſmiſs this Subject with only obſerving, that many of our greateſt Politicians have thought it expedient to encourage the Introduction of Foreigners among us by a Bill of general Naturalization, in order to multiply Hands for the Increaſe of our Manufactures, and the Reduction of their Prices; but ſurely it is a much more national Scheme to adopt Meaſures of Improvement in Agriculture, (which will of courſe reduce the Number of Hands wanted therein, and direct them into Trade,) than to introduce Shoals of Foreigners among us; whoſe Number, at the ſame Time that they leſſened the Price of Labour, would enhance that of Proviſions, and in both reſpects add to the Diſtreſſes and Hardſhips of the inferiour Ranks of People.

4. The fourth Objection againſt Incloſures is, that they render a Country much leſs commodious both for travelling and ſporting. The latter Part of this Allegation the Writer does not undertake to anſwer; but whether the Amuſements of a few private Gentlemen, which they cannot purſue without Treſpaſs, in a Country either open or incloſed, ought to be

ſet

ſet in Competition with the undoubted Right of Improvement, which every Proprietor has over his own Eſtate, He thinks is a Queſtion, which may be eaſily decided. The Convenience of good Roads for travelling is indeed a Matter of great publick Utility; and it would be as unfit that the Publick ſhould be incommoded for the private Advantage of any Set of Proprietors, as that the Proprietors ſhould be debarred of the Improvement of their Eſtates, leſt it ſhould interfere with the Diverſions of Country Gentlemen. But then the Laws in force are ſufficient to compel the Repair of the Roads, where Proprietors are ſo wanting in their Duty to the Publick, as to make no proper Proviſion for it when they are incloſing. And the ſame Thing might be in ſome Meaſure ſecured in every Bill of Incloſure, by proper Clauſes, to enforce the paving or ſoughing of all Gate-places under heavy Penalties; to reſtrain Proprietors from incloſing any Roads on both Sides, except Turnpike Roads, till they are certified by two or more Juſtices to be in ſufficient Repair; and under the Penalty of the Road being ſupported at the private Expence of the Perſon incloſing, according to the old Law of *England*; from which it is a great Pity

that any Deviation was ever permitted to be introduced. Such Precautions as theſe in the firſt compiling of Incloſure-Acts, ſupported by the Exertion of ſerious Endeavours of the neighbouring Gentlemen to compel the Execution of them, would be ſufficient to over-rule this laſt Objection, ſo far as the Publick is incommoded by it.

5. The laſt Objection againſt Incloſures, which is, that by making them too general they will ceaſe to be advantageous, would be an unanſwerable one to private Proprietors, if there was any Probability that it would prove true. Nevertheleſs it would even then be a Queſtion, whether the Publick were injured by them. For to what Cauſe could this Effect be attributed, but to the natural Produce of the Iſland exceeding both the Wants of its Inhabitants and the foreign Demands for it? And except that aroſe from a National Depopulation, what Detriment could the Publick receive from Plenty? But as long as the Ballance is on the other Side, which it apparently is at preſent, and we ſee no great Danger of a ſudden Tranſition to Exuberance; the Plan of private Proprietors is reaſonable, and the publick Encouragement

couragement hitherto given to Incloſures may be conſidered as a providential Means of having adminiſtered both to our Abundance and Greatneſs. If with all the Improvements in Agriculture, which have been made within the laſt Century, not only by the Cultivation of many of our Commons and Waſtes, but by the Introduction of new Kinds of Manure, artificial Graſs-ſeeds, Turnips, &c. (which have nearly doubled the Produce of our anciently cultivated light Lands, and greatly increaſed that of many of the ſtrong) our Markets are yet rather under than over-ſtocked with the Growth of them; it is evident, that if no ſuch Schemes had taken Place, either the national Conſumption and Exports muſt have been leſs, or that we muſt have fallen ſhort of a Supply of our own Neceſſities. Engroſſers and Foreſtallers may bear the Odium of combining to make artificial Scarcity, and of thereby enhancing the Prices of Proviſions: but if the Produce exceeded the Sale in any conſiderable Degree, it would not be in the Power of any Set of Men to prevent a Reduction of them. The Truth is, whatever Cauſe it is to be attributed to, the Increaſe of our Demands has hitherto kept Pace with the

Increaſe

Increaſe of our Growth; and as long as it continues ſo to do, it can be no bad Policy for the Publick to encourage, and it muſt certainly be the Intereſt of private Proprietors to perſiſt in, the Methods of Improvement which we have adopted.

Having now gone through the moſt material Objections againſt the Incloſure of Common Fields, a fair Opening offers to expatiate on the publick Advantages reſulting from them; but many uſeful Hints having been already offered to the Publick upon this Subject in a Pamphlet publiſhed in the Year 1723, entitled, PROPOSALS FOR THE IMPROVEMENT OF COMMON AND WASTE LANDS, &c. the Writer thinks it neceſſary to make only a few general Remarks for the Satisfaction of ſuch as have not an Opportunity of conſulting the above Performance.

Whatever is a Source of greater Wealth to the individual Inhabitants of any Kingdom or Country, muſt alſo be a Means of adding to the Riches of the Publick; ſince it is evident, that the wealthier any Subjects are, the more they have to ſpare for the Exigencies of the Government.

Whatever

Whatever alſo enlarges the Quantity of Proviſions or Materials for Cloathing in any Country, muſt increaſe its Manufactures, contribute to the Convenience and better Subſiſtence of its Inhabitants, and conſequently to augment their Number.

In a Naval and Commercial Kingdom, as *England*, the natural Bulwark and Strength of which conſiſts in its Fleets, it is a Matter of the greateſt National Conſequence to encourage the Growth of Timber, that the Sources of its Strength may never fail.

The fewer Hands are wanted for the Occupation of Land by the Improvement of Agriculture, the more will be to be had for the Enlargement of Manufacture, Commerce, and Navigation, and of Courſe, a more extended Trade, and a greatery Nurſery of Seamen.

Theſe Intimations are ſufficient to point out to every intelligent Reader ſome of the principal Advantages, which either directly or conſequentially flow to the Publick as well as to private Proprietors from the Incloſure of Common Fields.

## CHAP. III.

### *Of the Method of Incloſures, or of the ſeveral Steps to be taken previous to the Partition or Allotment of Common Fields.*

AN Incloſure of Common Fields is either brought about by general Conſent of the Proprietors intereſted therein, in which Caſe a Deed of mutual Agreement, confirmed by the Court of Chancery is ſufficient to eſtabliſh the Exchange of Property; or, where a general Conſent cannot be obtained, a Concurrence of ſo many of the Parties, as are poſſeſſed of four-fifths of the Property, is now looked upon as a ſufficient Ground for an Application to the Legiſlature to incloſe by Act of Parliament, provided the Lord of the Manor and the Impropriator, who have been conſidered as ſeparate and leading Intereſts, concur in the Application. In the former Caſe, Tythes are uſually paid in kind after Incloſure as before, or a pecuniary Compoſition ſettled in lieu thereof; but in the latter Caſe it is uſual to exonerate the Eſtates from all Manner of

of Payments of Tythes, by a Compenſation in Land, proportionable to their Value. Where Clergymen are intereſted in the Tythes, an Act of the Legiſlature is thought neceſſary to confirm ſuch Alteration of the Nature of Property, ſo as to eſtabliſh it beyond the Power of Revocation.

In both Caſes it is generally left to the Arbitration of three, five, or ſeven Perſons choſen for that Purpoſe, to aſcertain the ſpecifick Shares, which ſhall be ſet out for the ſeveral Proprietors, according to the reſpective Quantity and Value of their Lands, and their Rights of Common, Tythes, or other Intereſts in the ſaid Fields, while common and open.

The Method of Proceeding, of which only a ſhort Sketch will be contained in this Chapter, and afterwards the ſeveral Branches thereof be conſidered more at large, is in the firſt Place to have an Eſtimation taken by the Commiſſioners themſelves, or others, of the yearly Value by the Acre of all the known and common Lands in the Field, diſtinguiſhed by the general Names of the Furlongs or Plots, and the particular Diviſions thereof, where any Alteration of the Value takes Place. When this Point is ſettled, the next Thing to be procured

is a Plan and Survey of the Number of Acres in each Diviſion; which, when compleated, is called the *General Survey*: Afterwards the known Property of every Owner in each Diviſion is ſeparately to be meaſured, and this when finiſhed, is called the *Particular Survey*. By Means of the latter every Proprietor's Eſtate is reduced firſt into its Meaſure or Number of Acres, and then by a Compariſon of the Meaſure of the ſeveral Parts with the Value of each by the Acre, as before fix'd, it is reduced into Money, or its whole annual Value, unconnected with the common Ground.

In like Manner the General Survey, reduces all the Land in the Field both common and known into its Meaſure of Statute-Acres, Roods and Perches; and by caſting up the Value of the ſeveral Parcels, according to their Meaſure and Eſtimation, it gives the total Amount of a Field in Money or annual Value.

While the Surveys are preparing, the Commiſſioners have ſeveral Objects of Conſideration, as for Inſtance, to ſettle the Proportion for the Tythes, when that is left to their Deciſion; to adjuſt any Diſputes about Property; to determine the Quantity which ſhall be deducted from the known Land for right of Paſture thereon;

thereon; to give Directions about ſetting out Roads, Furze-Land for the Poor, Stone Pits for private and publick Uſe, for which any Proviſion is made by the Act, and the like. When the Surveys are finiſhed, and theſe ſeveral Matters adjuſted, the Method of inveſtigating the Value of the ſeveral future Eſtates, is by a Series of Calculations, founded upon the Determinations of the Commiſſioners, and expreſſed in a Schedule with ſeveral Columns, after the following Manner. The Firſt denoting the Names of the Proprietors; the Second their Property in Yard Lands, or otherwiſe; the Third the Quantity; and the Fourth the Value of their Eſtates upon Surveys; next to theſe are uſually placed the Quantity and ſeparate Value of each Proprietor's Stock, in the open Field State; after theſe follow the ſeveral Deductions from each Species of known Land, for the Common of Paſture thereon, expreſſed in one or more Columns, as there is Occaſion; and theſe Deductions added to the Common Land, furniſh the improved Value of the Stock, and are proportioned in another according to the Yard-Land, where the Stock is regular; or according to the Quantity of Cows, Horſes, and Sheep, in ſuch Manner as is appointed by the

Commiſſioners for each, where it is unequal. The next Column expreſſes the total amount of each Perſon's Eſtate, when the Common is added; after which the Tythes are deducted in one or more Columns, and the laſt is the Sum Total of the Eſtates to be laid out.

It is to be obſerved, that the Allowances for Roads, Right of Soil, Stone Pits, or Poor, where there are any, are uſually made out of the Common Land by a ſeparate Account, and the Remainder only is brought into the Schedule.

When the Value of every Proprietor's Eſtate is ſettled according to this Method, the General Survey and Plan, which points out alſo the reſpective Dwelling-Houſes of the Proprietors, eaſily ſhews the natural Situation of the ſeveral future Eſtates; from which there will be no Occaſion to vary, unleſs it be neceſſary for the Sake of allotting the Land of good or bad Quality more equally, or of giving Meadow or Turnip Ground to ſuch, as would otherwiſe be deſtitute of ſuch Conveniencies. If the Dwelling-Houſes of the Proprietors ſtand very near to each other, it ſometimes happens that all the Eſtates cannot be brought to the homeſteads, without being laid out extremely narrow;

row; and as that would only create an unneceſſary Expence of Mounding, and at the ſame Time incommode both Parties, in ſuch Caſes, that, which can be beſt provided for otherwiſe, generally gives Place, and takes his Allotment in ſome other Situation.

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## CHAP. IV.

### *Of the Quality or Eſtimation of Open Fields.*

THE firſt Step to be taken towards the Incloſure of common Fields, as was mentioned in the laſt Chapter, is to have an Eſtimation made of the yearly Value, by the Acre of all the Plots and Parcels of Ground contained therein. This Office is ſometimes undertaken by Commiſſioners themſelves, but more frequently by ſome neighbouring Farmers mentioned in the Act, or choſen by the Proprietors with Conſent of the Commiſſioners for that Purpoſe. There are three Properties very eſſential to the Right Diſcharge of it; viz. Underſtanding, Attention, and Integrity. Without a general Knowledge of the Nature and Uſes of Land, a Man is totally unqualified

unqualified for this Branch of Buſineſs; and this is the Reaſon why many Commiſſioners, and among others, the Author has always declined taking Part in it; well knowing, that whatever Caution and Integrity they may exert in the Execution of it, thoſe Qualifications cannot in this Caſe make Amends for any Defects of Judgment. Nor ought the moſt experienced to be too confident of their Underſtanding in theſe Matters.

There are few Concerns of more ſerious Conſequence to Individuals, than that, by which their Property is to be for ever aſcertained; and therefore it ought not to be done without the moſt mature Deliberation, and careful Attention to every Circumſtance, that can in any Degree affect its Value. A curſory View of the Surface will not ſuffice for this Purpoſe.

There ſhould be a critical Examination of its Soil, as well as of the Herbage, which it produces; an Enquiry into its latent Qualities, whether it contains any Thing noxious to any Species of profitable Cattle? Whether particular Seaſons are not adapted to it, and how far it is affected by the preſent? What Management it has been under for a Courſe of Years paſt, and

and the like? To theſe ſhould be added a due Regard to its Situation for Convenience; and a Conſideration of the different Expence of incloſing, according to its greater or leſs intrinſick Value. Theſe are the principal Objects, which ought to determine the Judgment of every honeſt Man on ſuch Occaſions.

And after all, the moſt ſkilful will differ in their Opinions upon theſe Subjects; nor is there any other Way to be aſſured of their Integrity but by their general good Character, or by obliging them to confirm their Sentiments with an Oath, to be taken before the Commiſſioners by each of the Quality-Men upon the Delivery of their Book; which Oath might be adminiſtered in the following or ſuch like Terms.

*I* A. B. *do ſwear that the Book or Paper now delivered in by myſelf, &c. contains a true Account, to the beſt of my Knowledge and Belief, of all the ſeveral Furlongs and Parcels of Land in the Common Fields of* C; *that we have carefully examined and conſidered the annual Value of each by the Acre, anſwerably to the within written Names and Deſcriptions; and that the Prices affixed to them are ſuch as were agreed upon by the general Conſent of all, or the major*

*Part of us; and that, as far as it relates to myſelf, it is done according to the beſt of my Judgment, without any Views of Intereſt to myſelf, and without Prejudice, Favour or Affection, to any of the Parties concerned.*

*So help me God.*

Though an impartial Eſtimation is one of the moſt eſſential Means of procuring equal Juſtice to all Parties, and what every Proprietor has Reaſon to be anxious about; yet it may not be an improper Caution to ſuggeſt, that it is very ill-judged to raiſe frivolous Objections from ſelfiſh Motives, which will probably anſwer no other Purpoſe, but to take up the Time of the Commiſſioners, and by conſequence to ſwell the Bill of Coſts, and create an additional Expence upon the Incloſure.

CHAP.

# CHAP. V.

## *Of the Survey.*

TO the Valuation of Open Fields ſucceeds the Survey; which cannot properly be begun till that is compleated; becauſe the Surveyor is to meaſure every Parcel, as it is ſeparately valued, according to the Deſcriptions and Quality Marks, which thoſe, who value, have affixed to them. Partiality is much leſs to be apprehended in this Article, than in the Valuation; becauſe the latter being merely arbitrary, it muſt be always doubtful, whether Errors are to be attributed to Want of Judgment or Integrity. But the Admeaſurement being made according to Geometrical Rules is ſubject to the Review of others; and tho' Miſtakes are ſcarce poſſible to be avoided in numerous Calculations, yet a Surveyor riſques the Reputation of his Abilities by thoſe which are only accidental; and therefore muſt be very regardleſs of his own Intereſt, before he will ſubject himſelf to the Diſgrace of any which are wilful.

As there are two diſtinct Branches of this Buſineſs, conſiſting of the general Survey of all the Lands in the Field, and the particular Survey of each Proprietor's Eſtate, it is uſual to commit the Execution of it to two different Perſons, that their Accounts may be a Check upon each other; and if upon Examination they tally, or nearly ſo in every Part, it is to be preſumed that they are both right. If they differ materially in any particular Spot, it is neceſſary that they go out and review it together, and the Miſtake is by theſe Means for the moſt Part very eaſily diſcovered. It is reckoned that there will always be a ſmall Difference between a general and particular Survey, ariſing from the more unequal Surface, which prevails over the Ridges and Balks of Furlongs, than upon the Hades or Outlines thereof. The Conſequence of this is, that the particular will ſomewhat over-run the general Survey, where both are meaſured exactly, becauſe the Lines of it are taken over the Ridges, where there is the greater Inequality; but the Variation in this Caſe is very inconſiderable, and the Method of adjuſting it eaſy. Indeed they ought to correſpond in Tracts of Tillage Land, according to the Method now generally practiſed,

and

and perhaps equitably, which is to reduce all Lands on a Furlong, or on each Side of a Furlong, (where thoſe on one Side appear larger throughout than the other) of the ſame Denomination to the ſame Breadth, except Head-lands. And in ſome Inſtances, where there is no Greenſward between Head-lands and Furlongs, which they head; the former being reputed to have an Allowance for the Injury ſuſtained by turning the Plough thereon from the latter, the ſame has been deducted from the Head-lands upon Incloſure, when the Injury ceaſes, and returned to the Furlong. By the Scheme of reducing Lands of the ſame Denomination to the ſame Breadth, the Buſineſs of a particular Surveyor is greatly contracted, becauſe, inſtead of taking three or more ſeveral Breadths of every particular Land, he has only the Meaſure of the Whole to take, in the ſame Manner as the General Surveyor, and proportion it among the Proprietors according to the Length and Number of their Half Acres, Acres, and Roods thereon.

The moſt approved Method of ſurveying and planning any Tracts of Land, is to meaſure the Outſides thereof from Station to Station with a Chain, taking Offsets from the ſtraight Line

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at convenient Diſtances, where there is any Irregularity in the Figure; and at each Station alſo to mark the Angles or Bearings between the Lines; which is done either by Means of a graduated Inſtrument, as a Theodolite, Circumferentor, or Semicircle; or otherwiſe it is done by Means of a Teleſcope and Plain Table; according to which Method the Lines are ſtruck and ſet off by the Scale, upon a Card fixed to the Plain Table in the Field; and the Angles thus drawn on the Spot, are determined to greater Certainty, than they can be by any graduated Inſtrument whatſoever. But the Difficulty in any of theſe Methods is to find the true Length of the Lines, which muſt be laid down not according to ſuperficial but horizontal Meaſure. In Aſcents or Deſcents the Chain moves in the hypothenuſal Line of a rectangular Triangle, the Perpendicular of which is the Horizontal; and therefore the latter is to be planned inſtead of the former, and the Difference between one and the other is found out by the Proportions between the Sines of the Angles, and the Sides, which ſubtend them. This is a Circumſtance of no great Conſequence in Fields, which are nearly level; but in ſuch, as are very hilly, it is material, and ought to be carefully

carefully attended to. When the ſeveral Lines and Angles are laid down from the firſt to the laſt Station, if upon Examination, the Line from the laſt to the firſt correſponds in Meaſure by the Chain to what it turns out upon Paper, by the Scale, more eſpecially where there are Lines which interſect by Means of croſs Stations, if the Meaſure of them upon the Scale anſwers alſo to that of the Chain, it is next to Demonſtration that the Whole is right, otherwiſe it is certainly incorrect, and ought to be reviewed. It is in all Caſes, a proper Caution in Surveyors, even when they have no Suſpicion of Errors, to mark their Stations on the Plan, together with the Length of the Lines between each Station, by which Means they are enabled with much greater Facility, if ever hereafter there ſhould be occaſion, to re-examine their Work according to their former Method of Operation, and thereby to diſcover what and how any Miſtakes aroſe in the Courſe of it.

The firſt neceſſary Step towards the Exactneſs of a Survey, is to gain the moſt preciſe Knowledge of the Boundaries of the ſeveral Furlongs in general, and of every Perſon's reſpective Property in each. The Proprietors themſelves

themſelves muſt be anſwerable for any Delay in the Survey, if they do not take Care to furniſh proper Helps for obtaining this Knowledge, by ſending People who are acquainted with the Cuſtoms of the Fields, to ſet out the Furlongs and joint Ways, to mark their Lands, the Diviſions of the Hades, Meadow Ground, and the like; and this ſhould be done as early as poſſible, in order to forward the Buſineſs of the Surveyors, which muſt be entirely at a Stand without it. When the Surveyors are thoroughly informed of theſe Particulars, their next Care is to be exact in the Meaſure, and laſtly to find out the true Value of them from the Meaſure compared with the Quality. The particular Surveyor has the Meaſure and Value of every diſtinct Parcel of every Proprietor to find out and caſt up, firſt ſeparately and then collectively; ſo that in a Field of any conſiderable Extent, there may be ſeveral thouſand Calculations to be made, and every one of them ought to be examined, to ſee that no Miſtakes have aroſe through Inadvertency or Haſte. The General Surveyor on the other Hand, though he has only ſo many Meaſurements, as there are Diſtinctions in the Quality, and ſo many Calculations as ariſe

from

from caſting up the Meaſure and Value of each particular Part, has, over and above, not only the whole Field to plan or deſcribe in Miniature, according to a certain Scale or Proportion; but alſo the Homeſteads, or ſuch Lines thereof, as may be ſufficient to ſhew the natural Situation of every Proprietor's future Allotment, together with the old Roads and all Hedges in the common Field marked in ſuch Manner upon the Plan, as to point out to the Commiſſioners which Way the Bank is thrown up, in order to aſſiſt their Judgment in the Allotment of the Mounds. To determine the Lines and Angles in each particular Plot or Quality, and to lay them down upon a Chart with Exactneſs, ſo as to make them correſpond in every Part, is a Work of the utmoſt Nicety, and not without great Care and Pains to be accompliſhed. All theſe ſeveral Objects, which, together with the ſetting out the new Eſtates according to the Directions of the Commiſſioners for Incloſure, make up the Buſineſs of the Surveyor, require not only Abilities, but the utmoſt Attention and Circumſpection to diſcharge it properly.

And after all, there is a very eſſential Quality ſtill wanting in a Surveyor, and that is Diſpatch. The additional Expence and Inconve-

hience, ariſing to Proprietors from the Want of it, make it very proper for them to have a principal Regard to it in their Choice of Surveyors, as well as to lay ſome Reſtraint upon them with reſpect to the Quantity they undertake in the ſame Year. For if they have their Hands too full, the Conſequence muſt be, that ſome of their Buſineſs will be either delayed or hurried over; and in either Caſe, very great Prejudice may enſue to Proprietors; in the latter, by occaſioning Miſtakes: In the former, by enhancing the Expence, and poſtponing the Buſineſs at a Time, when their Intereſt requires it ſhould be finiſhed.

The Survey ought always to be laid before the Commiſſioners the Beginning of *October*, that they may be able to proceed directly upon the Allotments, which for many Reaſons ſhould be no longer deferred. The Rights and Intereſts of the former Occupiers, who will have then gathered their Crops, are coming to a Concluſion. If any Fallows have been made, the Seaſon for ſowing Winter Corn is at hand. If any Part of the Fields have been laid down with Graſs-ſeeds, the future Proprietors thereof will ſuffer daily in the Loſs of their Herbage, and perhaps alſo in the Deſtruction of it by

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the treading of large Cattle, if the heavy Rains ſhould fall early. And beſides all this, the proper Seaſon for planting, commences ſoon after the Fall of the Leaf; and in ſtrong Clays, the Growth of Quickſets, depends very much on their being early planted. All theſe Reaſons make it highly expedient and beneficial to Proprietors to have every Thing which concerns their Incloſure, entirely ſettled by the Beginning, or at the fartheſt by the Middle of *November*, which cannot be done, unleſs the Survey is compleated and laid before the Commiſſioners early in *October*; after which the Situation of the Allotments being fixed, they are to be meaſured and ſtaked out, and each Perſon's Share of Mounding to be aſcertained; all which in a Field of any conſiderable Extent, will require a Month or ſix Weeks at leaſt, to adjuſt finally, from the Time of the Delivery of the Survey.

## CHAP. VI.

### *Of the Power and Buſineſs of Commiſſioners.*

COmmiſſioners appointed by Acts of Parliament for dividing and allotting common Fields, are directed to do it according to the reſpective Intereſts of the Proprietors therein, without giving undue Preference to any, but paying due Regard to Situation, Quality, and Convenience. The Method of aſcertaining is left to the Deciſion of the major Part of them in all Caſes, which are not expreſsly provided for under the Act; and this without any other Fetter or Check upon them, beſides their own Honour and Conſcience, of late indeed, awed by the Solemnity of an Oath. By this unbounded Confidence They have an abſolute Power veſted in them not only to ſettle all Diſputes, which ariſe between any of the Parties concerned, whether about the Quality, the Survey, or the Property; but alſo to determine by the Meaſure of their own Abilities and Judgment, the Quantity and Situation of the Allotments, and the Proportion of Mounding, which each

each Proprietor ſhall make for his Eſtate, under the ſingle Reſtriction before-mentioned. This is perhaps, for the Extent of the Object, one of the greateſt Truſts, which is ever repoſed in any Set of Men in the Kingdom; and therefore merits all the Return of Caution, Attention, and Integrity, which can reſult from an honeſt, impartial, and ingenuous Mind.

Yet notwithſtanding, under the Latitude before mentioned, it has frequently happened, (and it would be ſurpriſing if it had not) that different and even the ſame Perſons, have decided differently in parallel Caſes, according to the declared Senſe of the Majority, or the different Degrees of their own Experience, Attention, and Judgment, not to ſay Prejudice. Without arraigning the Motives, which might poſſibly be very honeſt, this is certainly a Grievance to Particulars, and ſuch an one as it is greatly to be wiſhed, could be prevented. If a Man's Property is concluded by Deciſions of Courts of Judicature, founded upon known Maxims of Law or Equity, it is his Duty to acquieſce; but it is rather hard of Digeſtion to be precluded from any Appeal againſt the vague and uncertain Sentence of a Majority of five, who have themſelves perhaps given different

Judgment

Judgment in other Caſes under ſimilar Circumſtances, without any better Reaſon for altering their Opinion than that of Serjeant *Maynard*, viz. " that He was grown older and " wiſer in the Afternoon than He was in " the Morning."

In Matters, which are merely arbitrary, ſuch as the Valuation of Fields, there is no other Standard to be determined by, but the Underſtanding and Integrity of Particulars; but for the Reſolution of Points, which depend on Principles of natural Reaſon and Equity, as far as the Variety of Caſes can be aſcertained, the Method of Determination may be preſcribed. There are two Objects, which are always ſubmitted to the Diſcuſſion of Commiſſioners, to wit, the Value of Common Rights, with the Method of providing for them; and the Proportion of Mounding which each Proprietor ſhall make for his Allotment: Theſe and the comparative Value of Tythes, and the Lands, out of which they are iſſuing, which in ſome Inſtances is left to be ſettled by Commiſſioners, might be brought nearly to a Regulation.

There are alſo ſome Circumſtances peculiar to certain Species of Property in open Fields,

for

for which Commiſſioners, under the preſent Form of Incloſure-Bills, are not perhaps authorized to make ſuch Allowances as are really equitable; ſuch are the Caſes of very ſmall Property, and of that, which is unimproveable. It was the principal Deſign of the Writer of this Eſſay, to ſubject to the Conſideration and View of the Publick, ſome of theſe Points, which are of ſo intereſting a Nature to Individuals; in order to try if ſome Expedient could not be propoſed to give Redreſs to the undeniable Hardſhips of ſome; to prevent others from depending altogether upon the precarious Turn, which the Inexperience, Inattention, or Caprice of Commiſſioners may chance to give them; and to eſtabliſh all Determinations about Property, as much as poſſible, upon certain and invariable Principles.

CHAP.

## CHAP. VII.

### *Of Improvement by Incloſure.*

IT was before obſerved, that by the Completion of the General Survey, You have the whole Sum of a Field in Money or annual Value; and that, after ſetting out Roads and any other Allowances, for which particular Proviſion is made by the Act, the Remainder is the groſs Sum to be proportioned among the Proprietors, according to their ſeveral Intereſts; and this compared with the annual Rents of the Field before Incloſure, is uſually ſtyled, The General Improvement of the Field. As for Inſtance, ſuppoſing that the Rents of an open Field before Incloſure, are ſeven hundred and fifty Pounds, and that the whole of what is ſet out for the Proprietors, amounts according to the Valuation and Survey, to fifteen hundred; then the Field is ſaid to improve from ſeven hundred and fifty to fifteen hundred, or to double its Value.

This is the Meaſure, which is frequently preſcribed to Commiſſioners by Act of Parliament for the Improvement of Tythes, and perhaps

perhaps it is alſo the only Rule, at leaſt the moſt unexceptionable, that can be laid down for that of Common-Rights, which is always ſubmitted to the Determination of Commiſſioners.

The Improvement of particular Eſtates will by no Means correſpond with this general Improvement of the Field; but depends entirely on their own intrinſick Value, calculated from the Meaſure and Quality of the ſeveral Parts of them, and on their Quantity of Common Rights; and has no Connection at all with the Rents before Incloſure.

From this Circumſtance it will neceſſarily happen, that, at the ſame Time that the Rents of particular Eſtates are greatly advanced by Incloſure, thoſe of others will receive very little Increaſe, perhaps Diminution. Such for Inſtance, as Tracts of Meadow or Graſs Ground, which are uſually ſett at a Rack-Rent in the Open-field State, eſpecially if they are of good Quality. It likewiſe generally happens, that ſmall Properties are higher rented than large ones, in proportion to their reſpective Enjoyments; which is probably owing to their being better huſbanded, while in the Occupation of the Owners, or that they are more eagerly ſought after for Convenience; and there-

fore ſuch Eſtates muſt of Conſequence improve leſs from their former Rents than others, which are differently circumſtanced. There is alſo rarely very little more than a ſmall Abatement from the cuſtomary Rent of Land in the ſetting of that, which is entitled to keep a very inconſiderable Stock, or none at all, and that which depaſtures a complete Proportion. On the other Hand, Rights of Common are almoſt always ſett extremely cheap, in proportion to the Paſturage, which they appear to enjoy; and upon this Variation of Circumſtances reſts principally the Inequality of Improvement in the ſeveral Kinds of Property in Open Fields.

The Meadow or Mowing Ground, and alſo Tillage-Land without Common, ſubjected to a Deduction of perhaps a third, a fourth, or a fifth, for the Paſture, which they afford to the Stock; and to another of a ſeventh, or upwards of the Remainder for Tythes, is frequently laid out leſs by ſeven, eight, or even nine Shillings in the Pound, than they turn out upon the Survey; and the Proprietors thereof, after taking their proportionable Share of all Expences of the Survey, Commiſſion, and Incloſure, have in many Inſtances, found a Neceſſity even of Abatement from their former Rents,

Rents, when they have been unconnected with other Property. The ſmall Proprietor receives not equal Advance in his Rent with the larger under the ſame Circumſtances after Incloſure; becauſe his Land was proportionably higher rented before. But in general it will be found, and for the Reaſons before given, that the ſeveral Owners will receive more or leſs Benefit by Incloſure, in proportion to the greater or leſs Quantity of Common-Rights, which is appendant to their Lands.

And indeed it will admit of Doubt, whether there is really any Room for Complaint in this unequal Advantage of Open-field Property, ſuppoſing that each Proprietor is obliged to furniſh ſuch a Quantity of Paſture before Incloſure, as He uſually does for the Support of the Stock; for then the Quantity allotted for the Proviſion of the Common-Rights, is no more than the *ſummus jus*, and what they are, in Strictneſs of Eſtimation, entitled to. But perperhaps this Matter will appear in a clearer Light, in the Courſe of the Obſervations, which will ariſe in the ſucceeding Chapter, on the Herbage or Right of Paſture in Common Fields.

## CHAP. VIII.

### *Of the Herbage or Rights of Paſture in Common or Open Fields, and the Method of providing for them upon Incloſure.*

IT is probable that in the original Conſtruction of Open Fields, the Common of Paſture, except Cottage Commons, was in Proportion to each Proprietor's Quantity of known Land: but the abſolute Right of Alienation, which the Law gives to every Owner over his own Property and every Part of it, has cauſed a material Alteration in this reſpect. The Open-field Enjoyment conſiſting of two Species of Property, the Common of Paſture, and the Right of Severalty in the Land; and each being ſubject to Alienation, according to the Will and at the Diſcretion of the Poſſeſſor, it is now no unuſual Thing to find the former without the latter, and the latter without the former, and neither in any Proportion to each other; and this renders it neceſſary for Commiſſioners to conſider each of theſe Species ſeparately.

At the firſt Inſtitution of Incloſures, little or no Attention

Attention was paid to the Inequality of Paſture on the known Land. Odd Commons were provided for out of the Common Land, and the Remainder of it was diſtributed among the Proprietors of Yard-Lands, in proportion to their Enjoyment, but without any Deduction from known Land, except ſuch as was not entitled to any Common of Paſture. This Error, which had been adopted by inattentive Commiſſioners, was at length, by more careful Obſervers, ſeen through; and the Equity of a Deduction from the known Land was acknowledged, in order to give Compenſation for the Inequality of the common Enjoyment on ſuch Eſtates, the Proprietors of which were not entitled to keep a Stock of Cattle proportionable to their Quantity of Land. The Method at firſt hit upon was to take the Average Value of all the Yard Lands upon Survey, and to make a Deduction from the Exceſs of ſuch as were above the Average, which was given back in the ſame Proportion, to compenſate for the Defects of ſuch as were below. For Inſtance, if the Average of the Yard-Lands was thirty Pounds a Year, there was a Deduction of four or five Shillings in the Pound from all the Pounds above thirty, which was given

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in the ſame Proportion to ſuch as were under that Value, according to the Number of Pounds which they were deficient of the Average; and this was called getting or loſing upon the Average. But Commiſſioners have now generally adopted a much more ſimple and natural Way of adjuſting this Matter. They order a Deduction of a greater or leſs Quantity from all the known Land in the Field for the Herbage or common of Paſture thereon; and this added to the Remainder of the unknown Land, after Deduction of Roads, &c. is thrown back by the Yard-Land, where the Stock is equal, or otherwiſe, by the Tooth or Number of Mouths, which are entitled to the Eatage of it, in certain Proportions for each, according to the Value affixed to them.

To give ſome Idea of the Nature of Common-Rights in Open Fields, it may be proper to obſerve, that the Cattle depaſtured therein, in the Middle Part of *England*, where Incloſures have chiefly prevailed, are Horſes Cows, and Sheep. The Horſe has rarely any Summer-Common, nor is it depaſtured as profitable Stock, but kept merely for the Cultivation of the Fields. The Owner flits it on his own Ground, where He has Right of Severalty till Open-tide; and from that Time till

till *November*, (when Fields are uſually cleared of Horſes) He has the Range of the whole Premiſſes. During the laſt-mentioned Interval, thoſe who rent only ſix or eight Pounds a Year, commonly enjoy the Privilege of turning in three or four Horſes into the Fields; and the Occupiers of large Farms ſubmit to be reſtrained from ſetting Commons, which they have not Horſes ſufficient to ſtock, except to their Townſmen; becauſe otherwiſe their Aftermoaths would be cleared off much ſooner than was conſiſtent with their own Convenience. From theſe Circumſtances it is evident that there is no Equality in the Enjoyment of the Paſturage of Horſes on the Common of Open Fields, and that the Whole is calculated and ſubmitted to, merely for the Convenience of the Occupiers; that ſmall Farms may be enabled to keep a Team of Horſes for the Occupation of their Land, and that great ones may be reſtrained from keeping more than their own.

In ſome Inſtances it happens, that there is no Summer-Common for Cows, or a very inſufficient one for the Number, which the Extent of Farms enables the Occupiers to winter, and which is the proper Meaſure of the Number,

ber, which they ſhould ſummer. In ſuch Caſes they are uſually depaſtured on the known Land either ſeparately or together, by Agreement till Lammas; at which Time the Fields in Crop being all or chiefly cleared of Hay, there are Openings for their Admittance into the Aftermoaths, and they from thence enter upon a Common Depaſturage; of which they keep Poſſeſſion in ſome or other of the Fields till Martinmas or Chriſtmas. But in general there are Tracts of Common Ground appendant to open Fields, which are ſet apart for the Summer Paſture of Cows, and of which they uſually keep Poſſeſſion till about Lammas, the Time of their Entrance upon the Aftermoaths, as before-mentioned.

The Sheep Common is of the greateſt Extent. Their Depaſturage is found in ſome or other of the Fields for the whole Year; and they have an excluſive Right for the moſt Part in the Fallows from Chriſtmas either to Lammas, or Open-tide; and yet ſuch are the accidental Loſſes attending this Species of Stock in open Fields from the Scab, Rot, Water, Extremities of Weather, and the like, that except in thoſe of very good Quality, their Common is ſeldom to be eſtimated at more than the Value

of

of their Manure. They are often ſett without any other Reſerve of Rent; nay after a Rot a conſiderable Premium in Money is frequently given beſides their Eatage for their Folding. It muſt however be acknowledged, that in many Inſtances there are conſiderable Gains ariſing from Open-Field Sheep to thoſe who underſtand the Care and Management of them; but as an Enjoyment to make an Advantage of by Way of letting, otherwiſe than for the folding, it is very inconſiderable; and in no Degree proportionable to the Value of the Herbage, which they enjoy.

Theſe are the ſeveral Species of Cattle depaſtured in open Fields, and ſuch is the Nature of their Enjoyment.

There are ſome other Circumſtances, proper to be attended to in regard to the Matter now under Conſideration. The Owner of Open-field Property has rarely the whole Enjoyment, which He is entitled to of the Graſs Ground in ſeveralty before Open-tide. The Aftermoaths, which He has a Right to eat up, if He has Horſes ſufficient for it, are great Part of them uneaten, eſpecially on large Farms; and they are ſubmitted to be made common Paſture of for common Con-

venience. Again, the Herbage of open Fields is liable to great Depredation, which makes it expedient to lay down more Land for Graſs, than otherwiſe would be neceſſary, for the better Support of the Stock; and tho' in general Common-field Farmers are apt to think that they can never plough too much, yet ſome have had the Judgment to find out that their eaſieſt and beſt Gains ariſe from the Improvement of their Common; and accordingly have entered into Aſſociations for converting Part of their Tillage into Graſs-Ground. Under all theſe Circumſtances, what Proportion of known Land ought in ſtrictneſs to be allotted upon an Incloſure, for the Common of Paſture thereon, is a Matter, which will admit of great Doubt.

It is not clear, whether Occupiers of Open-Field-Lands are reſtrained by Law, or by their own mutual Compact, from converting Herbage into Tillage. If by the latter only, the Common of Paſture on the known Land may by the mutual Conſent of Tenants, be in a Manner annihilated. And if the Law obliges them to furniſh Graſs for the Support of the Stock, it can only oblige them to furniſh ſo much, as they have been accuſtomed to do

for

for Time immemorial; and not to any Additions, which they have voluntarily impoſed, and can no longer be binding upon themſelves than during the Subſiſtence of their own Compact.

The uſual Method of late practiſed for providing for Common Rights upon an Incloſure, has been to make a Deduction from Meadow and Graſs Ground, going to the Fallow-field every third Year of at leaſt one third; of that which being mowable every Year goes at Midſummer or ſoon after to the Common of at leaſt two ſevenths; of that which being mowable every Year, is ſeveral alſo till Lammas, of at leaſt one fourth; and ſo in that proportion, or nearly, for ſuch Kind of Property unconnected with Yard-Lands; which is undoubtedly as little as the Herbage of them can be eſtimated at. And for the other Property, conſiſting of Ridge, Hade, and Balk, and going in Rotation to the Fallow-field; the Deductions ſince any have been made, have been ſeldom more than one fourth, nor leſs than a fifth. Theſe ſeveral Deductions, together with the Reſidue of the Common-land, are proportioned according to the ſeveral Intereſts of the Proprietors among the Stock.

The * Retail Value of the Commons (Horſe included) ſeldom exceeds one third of the yearly Rent of Farms, and in many Inſtances, not a fourth; for ſuch Land, as has its full Quantity of Stock; except where Graſs-Seeds are cultivated. The Wholeſale in reaſonable Eſtimation, muſt be rated conſiderably ſhort of that Proportion. In many Fields, the Common amounts to a fifth Part of the Value, in ſome to a fourth; and there are Inſtances, where it ſtands even higher than that. It is obvious therefore, that where there is a conſiderable Quantity of Common, if it is added only to a fifth of the known Property, and the Whole proportionably divided among the Stock, ſuch Proviſion furniſhes Improvement for that Species of Property from their former Rents far beyond the general Improvement of the Field; and conſequently that the greater Quantity any Proprietor has of Common Rights in Proportion to his Land, the

* By the Retail Value of Commons, is meant the Price at which odd Commons are retailed by the Occupiers of Open-Field Lands to Under-tenants; and by the Wholeſale is meant that Proportion of Rent, which the Stock of a whole Farm taken together, may be reaſonably ſuppoſed to be eſtimated at betwsen Landlord and Tenant.

greater

greater is his Improvement under ſuch a Diſtribution.

Upon the whole of theſe Obſervations, it is certain, that there is great Inequality in the Improvement of different Eſtates upon the Incloſure of Common Fields; for which as far as it depends upon their own intrinſick Value, there is no equitable Remedy; but with reſpect to the Method of providing for the Common Rights, the Author think the following Queries merit ſome Conſideration.

Whether Horſes, kept merely for the Cultivation of Open-fields, not depaſtured upon a Summer Common as profitable Stock, and ſupported after Open-tide by Aftermoath, which was ſtrictly Part of the Right of Severalty, tho' ſubmitted for Convenience to the Common of Paſture, and enjoyed without any Equality, ought to have Proviſion made for them upon Incloſure? and whether their Eatage ought not to be conſidered as Part of the Right of Severalty, and calculated as ſuch?

Whether even the Cow and Sheep Common ought to be provided for upon Incloſure, according to the apparent Paſturage, which they enjoy in the Open-field State; but conſidering that great Part of the Herbage is ſubject to

Depredation,

Depredation, that the Enjoyment of the Reſidue is incumbered with the Charges of herding and ſhepherding, that it is doubtful how far the Occupiers are bound farther than by their own private Agreements to furniſh Paſture for the Support of the Stock, and that Part of the Eatage at Open-tide is in reality part of the Right of Severalty, whether they ought to reap the ſame Advantage, as if they were diveſted of all theſe Circumſtances? or rather, whether their Value ought not to be computed from their yearly Rent before Incloſure, and their Improvement to be made not to exceed the general Improvement of the Field?

Whether * Cottage and odd Commons not connected with Land, or with very ſmall Quantities only, ought not to be eſtimated at, and their Improvement calculated from the Retail Price of ſuch Commons before Incloſure? which to them is the ſame as the Wholeſale. And on the other Hand, whether the Stock of Farms ought not to be eſtimated from their wholeſale Value, or the Proportion which

* Perhaps there may be yet Room for farther Indulgence to Cottage Commons, which are certainly entitled to Paſturage for the Seaſon; and as the Property of them is ſmall, their Claims ought to be conſtrued in the moſt favourable Senſe for them.

they

they may reaſonably be preſumed to have ſtood at in the Rents of their Farms, in the Open-field State?

Whether Meadow or Graſs Ground, not connected with more improveable Property, or with very ſmall Quantities only, ought not, if it remain ſubject to the Deductions for Herbage, to be exempted from the Expence of Incloſing, or otherwiſe to be freed from the Deduction, in Conſideration of the Expence, becauſe, without ſuch Proviſion, the Proprietors appear for the moſt Part, to be injured by Incloſure?

Whether it would not be proper to to aſcertain in the Act, or otherwiſe, to lodge a diſcretionary Power in Commiſſioners to mitigate the Expences of, or Deductions from all Manner of Land without Common, lying in Ridge, Hade, and Balk, in proportion to the greater or leſs Advantage, which the Owners appear to receive from the Incloſure? And whether in the latter Caſe, there ought not to be ſome Method of Appeal againſt the Determinations of the Commiſſioners, where any Partiality was apprehended by either Party in the Exertion of it?

Whether Graſs Ground, which by the Direction

Direction of the Act is ſubjected to the ſame Payment of Tythe as the Ridge and Furrow, ought, if other Circumſtances are equal, to have more deducted from it for Herbage? that is, if upon an Incloſure, it helps to pay the Tythe for the Tillage, ought not the Tillage to help to pay the Herbage for it? for the Reſolution of which the following Quere may be aſked.

Does not the Tythe of the Tillage as much exceed the Tythe of the Greenſward, or nearly ſo, as the Herbage of the Greenſward exceeds the Herbage of the Tillage? If it does, then, when the Tythe is made equal, ought not the Deduction for Herbage to be alſo equal?

To theſe may be properly added in this Place another Queſtion, the Reaſon of which will hereafter appear at the End of the Tenth Chapter, which will treat of the Subject of Mounds.

Whether the outward Mounding of every Property under ten Acres, ought not to be limitted to a certain Number of Perches for each Acre, or otherwiſe a proportionable Allowance be made for every Perch allotted to the Proprietors exceeding ſuch Quantity?

It is certain, that, if a Regulation was to take Place upon the Plan of the aforementioned Queries, it would have a very conſiderable Effect in taking off the Hardſhip of the Expence from ſmall Property, in relieving the unimproveable, and in reducing the Improvements nearer to an Equality.

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## CHAP. IX.

### *Of the abſolute and comparative Value of Tythes in Common Fields, and their Proportion of Improvement upon Incloſure.*

TYTHES are conſidered by ſome perſons as a precarious Kind of Property, depending on the Method of cultivating the Land, which is entirely at the Will of the Occupier; and for this Reaſon they think that their Value ought not to be computed at the ſame Number of Year's Purchaſe, as the Lands out of which they are iſſuing; conſequently, that upon an Incloſure, when they are exchanged for Lands, there ought to be an Abatement from their proportionable Improvement, anſwerable to the Diſparity of their Value.

Others adopt the contrary Opinion, and inſiſt that Tythes will be daily increaſing in Value by Means of Incloſures; and that however dependent they may be upon the Caprice of Occupiers within incloſed Eſtates, they are on a more permanent Eſtabliſhment in Open Fields; where, if connected with other Property, Innovations cannot be brought about but by Conſent of their Owners; and if not, the Neceſſity of univerſal Agreement makes it highly improbable that any Schemes ſhould take Place, which can materially prejudice them. Some carry their reaſoning yet farther againſt Tythes, and argue that, as the Improvement of Land by Incloſure ariſes principally from the Decreaſe of Labour, they are not entitled to receive any Advantage from that Circumſtance; and that therefore, if they have an equivalent upon Incloſure without Expence, it is all the Compenſation, which is due to them. But to this it is alſo anſwered, that great Quantities of barren Land are thereby brought into Cultivation; that the Decreaſe of Labour is ballanced by the Increaſe of Manure, Turnips, and artificial Graſs-ſeeds, that the proportionable Value of Tythes within Incloſures adapted to Tillage, frequently ſtands at one ſeventh of the

the Rents of the Eſtates, and in many Inſtances higher; that even a grazing Tythe is never eſtimated at leſs than Two Shillings in the Pound; and that theſe ſeveral Payments without any Expence will generally be found to correſpond with the Improvements of the Eſtates procured with the Coſts and Charges incident to Incloſure. Without pretending to decide in theſe Controverſies, the Writer only thinks proper to obſerve, that the Method adopted by Lay Impropriators, within the Circle of his own Experience, has been to demand an Improvement proportionable to that of the Lands, calculated from the Rents of each before Incloſure, and taking upon themſelves their Share of all Expences; and this is undoubtedly a more equitable Method than fixing it at a ſeventh, or any other certain Proportion, which can by no Means anſwer to the particular Circumſtances of different Fields. There have been Inſtances where an Allotment of a ſeventh has given no Improvement at all to the Tythes; and there have been others, where it has more than doubled their Value; and this without any Inequality in their renting, the one being perhaps altogether as cheap in their former State, as the other. Beſides the greater or leſs Extent of

Tythes in different Pariſhes, there are many other Circumſtances, which affect their comparative Value, of which the Reader will be enabled to form an Idea from the following Remarks.

1ſt. The moſt material Thing which the Value of Tythes compared with the Land depends upon, is the Quantity of Tillage in the Open-field State; the Tenth of the Produce of which the Tythe is entitled to, without taking any Part of the Expence of its Cultivation; and this after all reaſonable Deductions for ploughing, manuring, ſeeding, weeding, reaping, &c. is in no Inſtance to be rated at leſs than a fifth of the clear Value of the Produce of ſuch Lands, and in many at two ſevenths.

2d. The greater the abſolute Value of any Tythe is, the leſs is its comparative Value with the Land out of which it iſſues. For Inſtance, ſuppoſing twenty Acres in one Field to produce upon an Average fifty Quarters of Wheat, and the ſame Quantity of Land in another to produce only forty, it is apparent that the abſolute Value of the former Tythes is to that of the latter as five to four; and yet both Crops being produced with the ſame Cultivation and Expence, the proportionable Value

Value compared with that of the Land is greateſt in the latter, as will be clear from the following calculation.

Suppoſing each Acre to be produced at the Expence of two Pounds ten Shillings, and that the Wheat, when gathered, is ſold at the Rate of five Shillings a Buſhel, then the Account will ſtand thus:

| *In one Inſtance.* | £. | *In the other.* | £. |
|---|---|---|---|
| 50 Quarters, Value | 100 | 40 Ditto, Value — | 80 |
| Deduct Tythe — | 10 | Deduct Tythe — | 8 |
| Expences | 50 | Expences | 50 |
| | 60 | | 58 |
| Clear Profit of Land | 40 | Clear Profit of Land | 22 |
| Comparative Value of Tythe and Land 10 to 40, or one fifth of the Land and Tythe taken together. | | Comparative Value of Tythe and Land 8 to 22, or upwards of 1-4th of the Land and Tythe taken together. | |

The ſame Inference will follow, in a leſs Degree, from a Calculation of the different Produce of Graſs Land of different Quality. Suppoſing that twenty Acres of one Field produces on an Average thirty Tons of Hay, and the ſame Quantity in another produces only twenty, and that the Expences of ſevering, &c.

till

till it becomes tytheable, are in the former Caſe three Pounds ten Shillings, on Account of the greater Bulk, in the latter three Pounds only; and that, when gathered, it is ſold at one Pound and five Shillings a Ton, the Account will ſtand thus:

| *In one Inſtance.* | £. | s. | *In the other.* | £. | s. |
|---|---|---|---|---|---|
| 30 Tons, Value | 37 | 10 | 20 Ditto, Value | 25 | 0 |
| Deduct Tythe — | 3 | 15 | Deduct Tythe — | 2 | 10 |
| Labour | 3 | 10 | Expences | 3 | 0 |
| | 7 | 5 | | 5 | 10 |
| Clear Profit of Land | 30 | 5 | Clear Profit of Land | 19 | 10 |
| Comparative Value of Land to that of the Tythe 125 to 15, more than 8 to 1. | | | Comparative Value of Land to that of the Tythe 39 to 5, leſs than 8 to 1. | | |

The ſame Method of Calculation may be applied alſo to ſmall Tythes, the comparative Value of which will alſo be found to decreaſe, as the Value of the Stock, out of which it iſſues, increaſes; becauſe the Onus or Expence of attending the depaſturage of one or the other being the ſame, the moſt valuable will ſtand in the higheſt Proportion. From hence it follows, and the Rule is general, that the more Produce accrues from any equal Quantity of tytheable

tytheable Land, if other Circumſtances are equal, the greater is the Value of that Land compared with the Tythe; and on the contrary the leſs Produce there is from it, the greater is the proportionable Value of the Tythe, although the abſolute Value thereof is leſs under the latter, and greater under the former Circumſtances.

3. All circumſtances, by which the Expence of cultivating Land is increaſed or diminiſhed, has a proportionable Effect upon the comparative Value of that Land and the Tythes iſſuing out of it, ſuch for Inſtance as great Extent of Fields, inconvenient Situation of them with reſpect to the Habitations of the Occupiers; and if we deſcend to more minute Conſiderations, the very Inequality of the Surface and the Diſpoſition of the Land to wear away Iron, create an additional Expence upon the Cultivation of it, without affecting the Tythe.

4. The more any Fields are fenced againſt the neighbouring Fields, and the more they are divided among themſelves, the leſs Injury will they ſuſtain, and their Cattle will be depaſtured at the leſs Expence; ſo that the Value of the Land is proportionably increaſed accord- to theſe Conveniences.

5. The

5. The laſt Circumſtance on which the comparative Value of Tythes and Land depends, is the Quantity of unknown or Common Ground belonging to a Field, which lying without any Cultivation, little Advantage accrues to the Tythe from it. The Summer Herbage is uſually eaten with Cows, the Tythe of which is in many Inſtances compounded for: and the Furze and Thorns, with which it is often plentifully ſtocked, rarely make any Compenſation to the Tythe at all; ſo that the Produce of this Land, though not very conſiderable, redounds almoſt wholly to the Proprietor.

Theſe are the principal Conſiderations, on which the Value of Tythes and Land depend. It may perhaps in ſome Inſtances happen, that the comparative Rents of Tythes, do not exactly correſpond with what might be expected from the foregoing Obſervations; and whenever that is the Caſe, it is to be preſumed that they are ſett either under or over their accuſtomed Value, becauſe there can be no other certain Principles of eſtimating them. But in general, the Author apprehends it will be found that Tracts of Open-field Land, of indifferent quality, otherwiſe inconveniently circumſtanced,

and

and having alſo but a ſmall Quantity of Common, and a great deal of Tillage-Land, will be found to have their Rents in proportion to thoſe of the Tythes, as four to one; or even as low as ſeven to two; and that other Fields of good Quality lying commodious for Occupation, and having a large Proportion of Greenſward and Common-Land, will ſtand as high as thirteen to two, or even ſeven to one; and that others will be found in the Medium between theſe two Extremes, according to the greater or leſs Variation of the afore-mentioned Circumſtances.

The Author choſe to be the more particular on this Head, becauſe a ſeventh is apt to be conſidered even by the Legiſlature itſelf as the true Proportion in all Caſes for great and ſmall Tythes, Expences included, upon the Incloſure of Common Fields. Whereas, if any Regard be to be paid to the proportionable Value of them in their former State, it is certain that that Quantity will in ſome Inſtances exceed, and in others fall ſhort of the true Proportion; and that, if they are thought to be entitled to the ſame Improvement as other Property, the only Way of aſcertaining that muſt be by their comparative Rents or Value be-

fore Incloſure, when they take equal Share of Expence, or by a Deduction from ſuch Improvement, when they are exempted, proportionable to the Expence, which they are freed from.

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## CHAP. X.

### *Of the Method of allotting Eſtates, and Fences upon the Incloſure of Common Fields.*

IN order to give a general Idea of the Nature of ſetting out Eſtates for Incloſure, and allotting Mounds to ſeparate them from each other, an Open-field may be conſidered as the Whole or Part of the Area of a Circle with the Village in the Center, and the ſeveral Eſtates to be laid out, as contained each between two Radii, and a Portion of the Circumference. Had every Proprietor a Dwelling-Houſe with a natural Situation to the Field, and an Eſtate large enough to be laid out of any conſiderable breadth to the Extremity, this would be the beſt Method which could be deviſed, both for the Beauty and Convenience, as well as Cheapneſs of incloſing them. The Method

of

of allotting the Mounds, where every Proprietor took his Share, and no Roads were directed to be incloſed, would be alſo extremely natural and eaſy; for the Proportion would be for each a Radius and Part of the Circumference, as far as his Eſtate extended, if that was not already fenc'd; and a Radius only, if it was; and following this Method, it would go on regularly through the whole Circumference, each Proprietor taking the Right or Left-hand Side of his Allotment, as it could be moſt conveniently ordered.

But it happens that Proprietors and Fields are rarely ſo circumſtanced as to admit of this Plan. Many can have no Communication from their Dwelling-houſes with their Grounds; and the Eſtates of thoſe, who have, are often ſo ſmall, as not to admit of any conſiderable Length, without being laid out extremely narrow. For theſe Reaſons ſome are obliged to be ſhortened, and others to be removed to a Diſtance, where they may be laid out adjoining to Roads, which furniſh a convenient Admittance into them. It alſo frequently happens, that there are Turnpike Roads over the Premiſſes, which the public Convenience requires ſhould not be incumbered with Gates,

and are therefore to be fenced on both Sides; that the Clergyman's Eſtate is directed to be incloſed by the other Proprietors, and that the Extremities of a Field are partly terminated by Hedges or Brooks, and partly open. From hence it neceſſarily happens, that there is a greater Proportion of mounding in ſome Parts than others, and Commiſſioners are obliged to accommodate their Plan to the Nature and Circumſtances of the whole, and the Conveniences of the ſeveral Proprietors, as well as they can.

In general each Eſtate is laid out contiguous to the Homeſteads, if the Situation admits of it, and it is required ſo to be. Such as are willing to forego this Advantage for fear of being too much crowded at home, or have no natural Situation, are laid out in other Parts agreeable to their Requeſt, if it can be complied with; or, if left to the Commiſſioners, they are brought as near to their Homes as they can be, without breaking in upon the natural Situation of others. The ſmall Eſtates are laid out of a convenient Length, and the large ones run round them. Commiſſioners have adopted a Doctrine, with regard to Tythes, which, if not equitable, is however very convenient; and

that

that is, that being a new created Eſtate, they are not entitled to any Advantage of Situation, but ought to give Place to the Claims of others. Thus much is certain, that being large, they ought to extend to the Extremity of the Field, but for their Admittance they ſhould be brought to the Homeſteads, or as near to them as they can.

Some have been of opinion, that, where every Eſtate cannot be laid out contiguous to the Homeſteads, it is an undue Preference to give that Advantage to any; and that, to eſtabliſh things upon a Footing of Equality, ſuch as are enjoyed with Houſes ſtanding remote from the Field, ſhould be laid out adjoining to the Town, and thoſe which have been occupied with Houſes contiguous to the Field, ſhould be laid out beyond the former. But as this would deſtroy the Beauty and Convenience of every Eſtate, without anſwering any material Purpoſe of Utility to any, it would be very abſurd to purſue it. And beſides it is alſo contrary to the Directions of every Act, which require that regard ſhall be paid to ſituation and convenience.

Indeed it is very proper for Commiſſioners, before they ſcheme out any Allotments, to conſider

conſider attentively the Requeſt of every Proprietor, and how far it can be complied with; to calculate what Eſtates are deſired to be laid within particular Diviſions of the Fields; how many of them there is room for; and if there is not room for all, which of them muſt be removed, and where. If Eſtates are begun to be laid out without a previous Attention to theſe Circumſtances, and ſome preconcerted Method of Proceeding, it will happen that thoſe, which are laid out firſt, are generally laid out beſt, and moſt agreeable to the Requeſt of the Owners, while the laſt are laid out as they can; and Commiſſioners, after having ſpent a great deal of Time, for want of ſuch Precaution, muſt either leave Things as they are, or have a great Part of their Buſineſs to do over again.

With reſpect to outward Fences, they are always directed to be made by each Proprietor upon his own Eſtate; and the Share allotted to be made is neither calculated from the Value, nor Number of Acres, but from the Circumference. Commiſſioners always conſider, upon a View of the Circumſtances of a Field, what Proportion of the Circumference will fall to each Proprietor to make; whether one

one Side only, or a Side and an End, or a Side and two Ends, and direct accordingly. Nor is there any Inequality in this, where Eſtates are laid out on Lands nearly of the ſame annual Value, and are alſo of the ſame Content; for then, if the Quantity of outward mounding for one Allotment be increaſed by the Length of it in Proportion to that of another, the Quantity of Mounds wanted for Subdiviſion is in the ſame Proportion leſſened by its Narrowneſs, and upon the whole, the Expence is the ſame; but with reſpect to Eſtates of different Quality, it from hence follows, that low-prized Land of equal Value muſt coſt more to incloſe it, than high-prized, becauſe it conſiſts of a greater Number of Acres; nor can Commiſſioners properly abate of the Proportion of Circumference for the outward Mounds, becauſe it is ſuppoſed capable of Improvement anſwerable to the Expence; and indeed the Legiſlature itſelf conſiders it in this Light, always allowing Tenants for Life to raiſe Money in Proportion to the Number of Acres, and not in Proportion to the Value.

Where it happens that a Side and an End is the due Proportion of outward Mound, that being the Standard for Subdiviſion alſo, it will fall

fall equal, whether on great or ſmall, long or ſhort Eſtates. Where it exceeds that Quantity, there is in ſtrictneſs room for a ſmall Abatement in Proportion to the Decreaſe in length of Eſtates *; and where it falls ſhort, it admits of an Addition in the ſame Proportion †. A Side and an End ought to be calculated by the Half-round, except when the Figure is rendered irregular either by the Channel of a winding Brook, or by acute Angles, which increaſe the Circumference in Proportion to the Content, without leſſening the Quantity of Subdiviſion; but in all Caſes where the Lines are ſtraight, and the Angles approach nearly to right ones, the Half-round is the true Meaſure of a Side and an End, whether for Quadrilaterals or Polygons: But for Triangular Forms, to give mounding in the ſame Proportion, the Half-round ſhould be meaſured by a Perpendicular from the Vertex of one of the Angles and half the Baſe, which is equal to a Side and an End of a Rectangle contained under thoſe Dimenſions.

* Otherwiſe the ſhort Eſtates will, when divided, have a greater Proportion of Mounding than the long ones.

† Otherwiſe the long Eſtates will, when divided, have a greater Proportion than the ſhort ones.

The

The laying out Eſtates does not admit of the circular Form, which is the moſt capacious Content within the ſame bounds; nor generally of that of any of thoſe Polygons, which approach nearer to a Circle than Squares; and therefore the ſtraighter the Lines are, and the nearer to Squares the Subdiviſions can be brought, ſuppoſing the Contents of Cloſes to be equal, the leſs Quantity will there be of Mounding, and conſequently the leſs Expence of incloſing.

Small Eſtates cannot be conveniently occupied without ſome Subdiviſions, and this enhances their Expence in proportion.

Farms laid out in Squares, the Contents of whoſe Areas are thirty Acres each, will have about three hundred and eighty-one Yards to a Side, or ninety-five Perches one-fourth for two Sides; which is nearly three Perches and one-fifth for each Acre. If in Squares of twenty Acres, each Square will have for two Sides, about ſeventy-eight Perches, or three Perches nine-tenths for each Acre. If in Squares of ten Acres, the Length of two Sides will be fifty-five Perches, or five Perches and a Half for each Acre. And if Properties are laid out of ſmaller Dimenſions, which is very common

upon Incloſures, the Proportion of Mounding increaſes, as the Quantity of Acres decreaſes. Five Acres will have thirty-eight Perches for two Sides, which amounts to ſeven Perches and three-fifths for each Acre; four will have eight and three fourths; three will have ten; two will have twelve Perches and one-fourth for each Acre, and a ſingle Acre will have ſeventeen Perches for two Sides, though they are laid out in exact ſquares; and in all theſe Caſes the increaſed Quantity of Mounding will be in the ſame Proportion to the Decreaſe of the Areas, if, inſtead of being Squares, they are ſimilar either Parallellograms or Trapeziums.

From hence it is evident, upon what unequal Terms great and ſmall Properties are incloſed, ſuppoſing other Circumſtances to be equal. And upon this Conſideration is founded the laſt Quere, at the End of the eighth Chapter, to which the Reader is deſired to look back.

CHAP.

# CHAP. XI.

## *Reflections upon Roads, with the proper Aſſize and Breadth thereof.*

THERE are three Things to be particularly attended to in laying out Roads over new Incloſures; 1ſt. the Convenience of the Publick; 2d. the Eaſe of the Pariſhoners, as far as it can be conſidered without intrenching too much upon that Convenience; 3d. the Convenience and Beauty of the ſeveral Eſtates, where regard can be paid to ſuch Circumſtances, without interfering greatly with the two former. As to the firſt, it is certain that the ſtreighter they are laid out, the more commodious they are, ſo that there is no remarkable Inequality in the Ground, and there was a Certainty that they would be put into ſufficient repair; but as it ſeldoms happens that Conſiderations of this Kind do not claſh with ſtraight Lines, Commſſioners are always induced to reconcile the Convenience of the Publick with the Eaſe of the Pariſhioners; and this they think is better done by ſometimes carrying Roads a little about for the Sake of di-

recting them over ſounder Ground, or by reducing their Number, when the Publick is not materially incommoded by it; ſuppoſing it more eligible to Travellers to take a little Circuit for the Sake of a good Road, than to go in a ſtraight Line over a bad one. It will happen in ſome Caſes, that a little Alteration of the Direction of a Road will render the Allotment of Eſtates in the Neighbourhood of it much more commodious. All Eſtates ſhould be laid contiguous to a publick Road, and alſo be as compact as poſſible within themſelves. When both theſe Points can be ſecured by a ſmall Deviation, Commiſſioners will perhaps be juſtified in doing it from ſuch Motives; though certainly Liberties of this Kind are not to be taken wantonly, nor ought the Publick to be incommoded for the private Convenience of any Body whatever.

As to the Breadth of Roads, ſuppoſing that they were always to continue open, the principal Object of Conſideration would be to make ſufficient Compenſation to the Proprietors for the Damages ſuſtained in their Eſtates by the Uſe of them, which is rather a Matter of private than publick Concern. But from the Time that they become incloſed, this is a Point

in which the Publick are certainly intereſted; yet even then it is a Conſumption of Property to extend it farther than is neceſſary to afford convenient Room for paſſage and ſhifting. It is therefore humbly ſubmitted to the Conſideration of the Legiſlature, whether it would not be of more real Utility to the Publick, if, inſtead of enlarging the cuſtomary Aſſize of forty Feet, for the Breadth of publick Waggon Roads, it was to be expreſsly provided in every Bill of Incloſure,

That a Sum ſhould be aſſeſſed not exceeding in the Pound, nor leſs than upon all the Eſtates to be incloſed, according to the improved Value; to be employed in the Repair of the Roads, under the Direction of Perſons appointed by the Commiſſioners, and to be accounted for to them before the ſigning of the Award.

That no Trees ſhould be planted within leſs than twenty feet of any publick Waggon Road.

That no Roads, except Turnpike, ſhould be incloſed on both Sides, till they have been certified for two Years together, upon a View thereof taken between Chriſtmas and Lady-day, by two or more Juſtices of the Diviſion, to be

be in ſufficient Repair, under Penalty of being ſupported at the private Expence of the Perſons incloſing.

The Writer recollects only one more Remark neceſſary to be made on the Subject of Roads, which is, that the Uſage of them thro' Eſtates being an Incumbrance, which it requires a conſiderable Expence to be freed from, they ſhould always, if poſſible, be given to the large Properties, to ballance againſt the ſuperior Advantages, which they have in other Reſpects over thoſe which are ſmall.

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## CHAP. XII.

*General Obſervations upon the Method of tranſacting Incloſure Bills, Expences, &c.*

THE Deſign of this Treatiſe having been to give a ſummary View of the ſeveral Tranſactions and Principles upon which an Exchange of Open-field Property for incloſed is founded, it would be defective in a very eſſential Part, if it was to be concluded without pointing out ſome of the Abuſes, which have crept into this Buſineſs.

One

One Branch proper to be brought under better Regulation is the Method of tranſacting the Bills, which is often very exceptionable. The whole Plan of them is for the moſt Part ſettled between the Sollicitor and two or three principal Proprietors, without even letting the reſt of them into the Secret, till they are called upon to ſign the Petition. They are in many Inſtances, not ſo much as indulged with a Sight of the Bill, or the Privilege of hearing it read, till it is tendered to them to be ſigned, and for that Purpoſe they are taken ſeparately. This leaves them expoſed to be practiſed upon by Agents in regard to the Choice of Commiſſioners, who have thereby an Opportunity of ſerving their Friends, which creates Expectations, and has the Effect, of being ſerved again in their Turn. Many Times the Buſineſs is hurried on and concluded without a ſingle Meeting of the Parties concerned to conſult about their common Intereſt, tho' perhaps the whole Property of many is at Stake. The Conſequence of this is, that if any of the Proprietors have reaſonable Alterations to propoſe, they cannot be complied with; or they muſt be truſted to the Honour of the Sollicitor to be ſettled in the Committee, becauſe the Bill

is already ſigned by ſome of the Parties, and therefore it cannot be altered without a Repetition of that Trouble, and a conſiderable Addition to the Expence.

All theſe Inconveniences might be remedied by introducing open and plain Dealing into theſe Tranſactions. Let publick Notice be given at leaſt one Month before the preſenting of any Petition, that an Application is intended to the Legiſlature for a Bill of Incloſure; and that a Meeting will be held on a Day appointed to conſider the Objections to it, and to ſettle the general Plan of a Bill. Let every Proprietor be alſo ſerved with a Copy of the Bill a Month before it is admitted to be read in either Houſe, and a ſubſequent Meeting be held to determine about the Choice of Commiſſioners, and to conſider whether the Bill is ſettled to every Body's Satisfaction before it is ſigned. Let thoſe who are yet diſcontented, give Notice of their Objections to the ſolliciting Parties in writing, and of their Reſolution to oppoſe, if they mean ſo to do, within a certain Number of Days after the laſt Meeting; and as to Alterations, let none be made in the Committee, at the Inſtance of any of the Perſons who have ſigned, unleſs it appears by writing under their Hands,

to

to be with the Conſent of all; then the Buſineſs of the Proprietors will be thoroughly underſtood, and that of Committees will be greatly ſhortened. This Ceremony, though it may be attended with ſome extraordinary previous Expence, would be ſatisfactory to Proprietors, becauſe they would know with ſome Degree of Certainty, what they had to truſt to; and in the End it would be alſo beneficial to them, becauſe there would be no Pretence for the Attendance of a Country Sollicitor at the Committees, except in Caſes of Oppoſition.

The Increaſe of Expences is another Grievance which calls for Redreſs. Thoſe are here meant, which fall immediately under the Cognizance and Controul of Commiſſioners; ſuch as the Payment of Sollicitors, and of Perſons deputed to prove the Allegations of the Bill; of Quality-Men, Surveyors, and even the Expences of the Commiſſioners themſelves and their own Entertainments: which have all been enhanced, and ſome extravagantly, in the Courſe of a few Years. The firſt of theſe Parties concerned muſt be paid according to the Time which they have ſpent in tranſacting the Buſineſs, and therefore this cannot be regulated by the Quantity of Property which is to be incloſed, there

being nearly as much Trouble in ſolliciting a Bill of Incloſure for a ſmall Property as a large one. But there is no Reaſon why their Demands ſhould be ſwelled by unneceſſary Attendances in Town, and extraordinary Pay, from two hundred or two hundred and fifty Pounds, which uſed to be the whole Expence of this Article, the Award and Inrollment included, to upwards of four hundred; which, except in a few Inſtances, is now the leaſt Sum offered to Commiſſioners as an Allowance to be made for the Expences of paſſing an Act, and the Sollicitor's Buſineſs in the Courſe of it, even when there has been no Oppoſition.

The Expence of proving the Allegations is an Article of much leſs Conſideration; but this was formerly, and might ſtill be done by ſenſible Labourers for five Guineas, which being now taken up by another Set of People, whoſe Time is eſteemed more precious, is ſeldom eſtimated at leſs than five, and ſometimes at ten Times that Sum.

The Pay of Quality-Men might be ſettled properly, according to the Quantity or Value of the Property, which they eſtimate; or otherwiſe according to the Number of Diviſions,

which

which they make in a Field for eſtimating it. And there would be no great Difficulty to determine how much Time they would have occaſion to employ in aſcertaining the Value of any Quantity, ſo as to conſider it in all its Circumſtances, if they gave a diligent Attendance to the Buſineſs.

Surveyors are always paid by the Acre, but formerly ſurveying, planning, and ſetting out was done for Ten-pence or a Shilling an Acre, for which of late Years, they have hardly ever been allowed leſs than Eighteen-pence, or ſome other Equivalent. This Money would not, however be ill beſtowed, if it inſured the timely Completion of their Buſineſs: But the Misfortune is, that the Increaſe of the Wages is a Temptation to undertake more than they can manage properly. To regulate this Matter, they ſhould be always limited in the Number of Acres which they undertake in one Year, and the Time of the Delivery of their Survey. They ſhould alſo be obliged to prove upon Oath, that they have examined all the Accounts of their own Books of Survey, and believe them to be right; and theſe would be the moſt effectual Checks either againſt Delays, which are ſo prejudicial, or againſt truſting to Subſtitutes,

which in Things of ſuch Conſequence ought not to be done.

It ſhould never be in the Power of any Set of Commiſſioners to reward Agents employed under them, nor even one another, beyond what they have really merited for their Loſs of Time, Punctuality, and Diſpatch; nor in any other Degree than what is proportionable to their Rank. Liberties of this Kind leave Room for Prejudices to operate in favour of Friends; and whoever attempts to withſtand the Torrent, runs the Hazard of being ſingular, or perhaps of being marked out as an Object of Hatred and ill Will for it.

Commiſſioners themſelves ought particularly to ſet Examples of Moderation both in their Demands and in their Expences; neither to deſire to be paid for Commiſſion Days, upon which they cannot give Attendance on the Buſineſs; nor to live when they do, beyond what their Station in the World will ſupport at other Times, nor to make Meetings of this Kind Seaſons for Jollity to themſelves and Friends, at the Expence of the Proprietors; much leſs the Hours which ſhould be devoted to Buſineſs. They ought to conſider themſelves as Perſons in whom a Truſt is repoſed;

which

which they will betray either by Negligence or wanton Profuſeneſs in themſelves, or by tamely ſubmitting to any extravagant Demands of others.

The common Objections againſt Incloſures admit of an eaſy and ſhort Anſwer. Can there be want of Employment, when the Prices of all Kinds of Labour are continually advancing? How is it poſſible that Proviſions can be rendered ſcarcer by that which increaſes the Quantity of them? Can the Number of People be diminiſhed, as the Conveniences of Life are multiplied? Theſe are very abſurd Conſequences to draw from Incloſures. But that they have the temporary Effect of raiſing the Markets of the ſeveral Parties employed in carrying them into execution, and that this ariſes in great Meaſure from the too great Opportunities, which are thereby offered to them of promoting each other's Intereſt is certain; and it is a Diſeaſe to which it were to be wiſhed that ſome Remedy was applied.

For many Inconveniences ariſe from this over-valuing the Labours of any Set of Men, and raiſing them to a Degree of Importance beyond what they have been accuſtomed to. Theſe indeed may not be ſo ſenſibly felt by thoſe,

thoſe, who are incloſing their Eſtates, while the Bitterneſs of the Pill is palliated by the Improvement of their Incomes; but the natural Tendency of it is to ſubject others, who reap no ſuch Advantages, to great Difficulties; and perhaps to leave many deſtitute of common Helps in the ordinary Courſe of their Affairs, merely through want of Ability to obtain them. Beſides this, to rate Perſons of inferior Stations upon a level, or even higher than thoſe of more liberal Education, can ſerve only to confound the Orders and Degrees of Men, and muſt have a very pernicious Influence on the Peace of Society, as well as the Proſperity of Individuals.

As to the advanced Price of Proviſions the Root of that is to be elſewhere ſought for; and as far as it is the unavoidable Conſequence of the Increaſe of Inhabitants, the flouriſhing Trade, and the extended Empire of Great Britain, let not Engliſhmen repine at it. Our Demands muſt be expected to riſe in proportion to our Wealth, and the Markets muſt be regulated by the Quantity of the Product and the Demands. But if we make a right Uſe of the Means, which Providence has put into our Hands, we have yet abundant Sources of

Supply

Supply within ourſelves. Fertility of Soil, and Temperature of Climate are Bleſſings which the bounteous Author of Nature has beſtowed upon this Iſland in great Perfection. If theſe were ſeconded by the Induſtry and Spirit of the Inhabitants, exerted in the Cultivation of our Waſtes, and in the Improvement of our cultivated Lands; and if the Endeavours of our Huſbandmen were rendered ſucceſsful by *Rain from Heaven and Fruitful Seaſons*, the Scene would be ſoon every where changed from barren and dreary Proſpects, into the more pleaſing Appearances of Fulneſs and Plenty.— *The Folds would be full of Sheep, the Vallies alſo would ſtand ſo thick with Corn, that they would laugh and ſing.*

THE END.